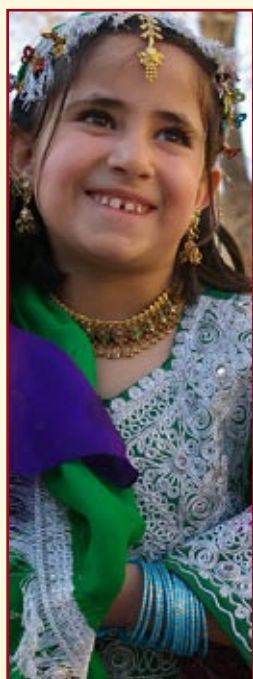


# Trafficking in Persons in Afghanistan

## FIELD SURVEY REPORT



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Disclaimer: All the victim names mentioned in this study are pseudonyms in order to protect their privacy. The persons in cover pictures are not victims of trafficking.

# Trafficking in Persons in Afghanistan

## Field Survey Report

June 2008



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Katsui Kaya  
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## List of Acronyms

ABP	Afghan Border Police
AIHRC	Afghanistan Independent Human Rights Commission
AMMC	Afghan Management and Marketing Consultants
ANP	Afghan National Police
AUP	Afghan Uniformed Police
CCCT	Committee to Counter Child Trafficking
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CID	Criminal Investigations Department
CRU	Child Rights Unit
CTU	Counter Trafficking Unit
EC	European Commission
EUPOL	European Union Police Mission in Afghanistan
GoA	Government of Afghanistan
HAWCA	Humanitarian Assistance for Women and Children of Afghanistan
IDP	Internally Displaced Person
ILO	International Labour Organization
IOM	International Organization for Migration
IRA	Islamic Republic of Afghanistan
MoE	Ministry of Education
MoFA	Ministry of Foreign Affairs
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoLSAMD	Ministry of Labor and Social Affairs, Martyrs and Disabled
MoRR	Ministry of Refugees and Repatriation
MoWA	Ministry of Women's Affairs
NGO	Non-Governmental Organization
SAARC	South Asian Association for Regional Cooperation
TIP	Trafficking in Persons
TVPA	Trafficking Victims Protection Act
UN	United Nations
UNAMA	United Nations Assistance Mission in Afghanistan
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
VoT	Victim of Trafficking

## Executive Summary

Trafficking in persons is a crime that can impair a personality and even destroy a human life and it gravely affects today's Afghanistan as a source, transit and destination country. The traffickers ruthlessly exploit men, women and children by violating their basic human rights and this modern-day form of slavery continues to thrive with impunity.

This research, the first of its kind, aims to provide an in-depth analysis of the trafficking phenomenon in, from and to Afghanistan, based on first-hand data, with a view towards developing effective counter trafficking strategies in the future. Research data was collected mainly from expert interviews and a field survey conducted in Kabul and nine border provinces, namely Khost, Nangarhar, Herat, Balkh, Faryab, Kunduz, Badakhshan, Kandahar and Farah, from July to September 2007. A total of 220 community informants, 20 victims of trafficking, 43 victims of kidnapping and 19 smuggled migrants were interviewed. The non- personal data of 115 victims of trafficking referred to and assisted by IOM between 2006 and 2007 was also used in the analysis, based on IOM's case record.

There are numerous factors making Afghan people extremely vulnerable to trafficking: more than two decades of conflict and the subsequent loss of lives and livelihoods, prolonged economic instability and deteriorating insecurity, to name a few examples. There are additional factors such as the common occurrence of violence against women, including forced marriage, rendering women particularly vulnerable. Children are another large pool of potential "targets" for trafficking with widespread poverty compelling up to one third of Afghan children to work in order to augment their family income. The majority of them are exposed to adverse working conditions outside of any protective mechanism. Afghanistan is facing a mass population displacement. Many of the displaced persons have no secure place to stay and end up living in camps or open areas deprived of any basic social services or means of livelihood. Women and children living under these conditions are particularly at risk of being trafficked.

In addition to factors related to the supply of potential victims, Afghanistan offers an environment favourable to facilitating the process of trafficking. Afghanistan shares borders with six countries and some parts are very difficult to control due to the terrain and trans-border tribal structures. In the absence of modern border management and a weakening of law and order, racketeers freely cross borders to traffic or smuggle people to or through neighbouring countries. With poppy production and smuggling of narcotics flourishing in the country, the tactics of criminal groups are more sophisticated than ever and their well-established networks contribute to cross-border trafficking operations.

In conclusion, the historical, economic and social factors contributing to the prevalence of trafficking in Afghanistan are so deeply imbedded that it will not be an overnight job to remove

them from society. The cases examined in this study are just the tip of the iceberg and many other cases, particularly concerning women and girls, are kept hidden in Afghanistan. One of the root causes of the phenomenon is observed to be a lack of understanding of trafficking issues among Afghan people at all levels, including senior government officials. Afghanistan’s counter trafficking efforts must therefore recognize the issues on all fronts, including legislation, policy making and information dissemination. Unless such efforts are made in the immediate future, this lucrative business will continue to thrive along with other illicit activities such as the smuggling of people and drugs, deeming vulnerable Afghan men, women, boys and girls deprived of their dignity and an opportunity to live a productive life.

The following table presents the major findings of the research and recommended counter trafficking strategies to address each of the identified issues.

<b>Key Findings</b>	<b>Recommendations</b>
<b>Overall</b>	
The Government of Afghanistan created the Committee to Counter Child Trafficking (CCCT) and developed a Plan of Action. Some agencies are making steady progress in combating human trafficking, but the coordination mechanism is no longer followed up.	The government should endeavour to formulate comprehensive national counter trafficking strategies and establish a new coordination mechanism among concerned ministries and organizations. Coordination efforts would ensure the effective sharing of information and a coherent reporting mechanism.
Although there are various organizations working on broader human rights issues, Afghanistan currently has few local or international organizations working with a clear focus on trafficking issues <sup>1</sup> .	The government should encourage more actors to get involved in its national counter trafficking efforts and the donor community should in turn provide more support for such initiatives.
There have not been adequate efforts for research in the field of human trafficking in Afghanistan. This study also had a number of constraints such as difficulty in identifying victims in the field, particularly women.	Regular research should be conducted with a particular focus on issues such as gender-based violence, criminal networks involved with illicit activities, and the psychological impact of trafficking on victims.
A significant number of trafficking cases involve more than one country. Most of the survey respondents were trafficked or smuggled to/ through Iran and Pakistan.	Regional cooperation should be promoted on issues such as effective border management, repatriation of victims, information sharing and extradition of perpetrators. (MoFA)
<b>Prevention</b>	
Various human rights violations such as forced marriage, child marriage, child abuse and	Human rights advocacy must be conducted against these social practices. Special attention

<sup>1</sup> IOM is one of a few such organizations with a clear focus on counter trafficking in Afghanistan.



domestic violence are contributing to the creation of an environment fostering or tolerating trafficking in persons in Afghanistan.	must be paid to children working in dangerous environments and interventions should be made for the improvement of their working conditions. (MoWA, MoLSAMD)
Afghan returnees often lack resources back in Afghanistan and IDPs are also living in dire conditions without livelihoods.	Appropriate assistance should be provided to Afghans returning from neighbouring countries and IDPs on a timely basis. (MoRR)
People are commonly aware of the occurrence of human trafficking; however, the three concepts of human trafficking, smuggling and kidnapping are widely confused. Most adult victims were lured into the false job offers due to their lack of awareness. Smuggled migrants can also fall victim to trafficking during the process.	Information campaigns should be conducted among the population in general, including all men, women and children, to promote safe and informed migration. It should be targeted not only at the vulnerable, but also at relatively wealthy individuals seeking job opportunities abroad. (MoWA, MoLSAMD, MoE)
Most community members rely on TV and radio as a main source of information.	The capacity of journalists should be strengthened so that the local media, particularly broadcast media, can correctly report on trafficking issues. (MoWA, MoE)
Less educated people are more prone to falling victim to trafficking.	School enrolment should be increased. Special attention must be paid to addressing the gender disparity. (MoE)
Trafficked persons are either taken by force or lured into false promises by people that they already know.	Community surveillance and patrols should be encouraged to caution people, particularly children and their families, on the risks of kidnapping and suspicious job offers. (MoI)
<b>Prosecution</b>	
There is a lack of legal provisions to prosecute human trafficking and the draft counter trafficking law is currently in the final stage of review by concerned ministries. There is some conceptual gap in the draft law and it appoints MoJ to lead an inter-agency commission but there is concern on their limited monitoring capacity.	The draft counter trafficking law should be expedited and some amendments must be made so that the concepts are fully in line with the international instruments. The lead ministry to head the inter-agency commission should be reconsidered and possibly changed to the Office of the President. (MoJ)
There will be an urgent need for training in order to ensure the correct understanding of the new counter trafficking law as soon as enacted.	The training of law enforcement officers should be continued to investigate and prosecute trafficking cases. (MoI, Office of Attorney General, Judiciary)
Currently there is no coherent reporting system on human trafficking cases and MoI is in the process of developing a database.	The development of the law enforcement database should be finalized. Information must be recorded, analysed and shared in a timely and

	consistent manner among relevant agencies. (MoI)
All victims of cross-border trafficking and smuggled migrants used unofficial land borders to Iran and Pakistan.	Border management system should be strengthened. More patrols and intelligence activities must be conducted to cover the borders. (MoI)
Female victims, trafficked for the purpose of forced prostitution, are currently criminalized and imprisoned.	Victims must be exempted from prosecution and imprisonment. Appropriate protection has to be given to victims so that they can cooperate with law enforcement authorities for the investigation and court proceedings. (MoI, Office of Attorney General, Judiciary bodies)
Women and their families are currently facing great social obstacles in reporting their cases, but crime reports and victim cooperation are key to successful prosecution.	Women should be empowered through awareness-raising campaigns, noting that women, trafficked for the purpose of sexual exploitation, are victims and entitled to seek assistance. (MoWA)
<b>Protection</b>	
There are NGO-run shelters for women subjected to violence, but there is no shelter specifically designed for victims of trafficking. After their traumatic experience, most victims are in need of short- and long-term support.	Shelters for victims of trafficking should be established and shelter staff should be trained on human trafficking issues so that they can address the specific psycho-social and medical needs of victims. (MoWA, MoLSAMD, MoPH)
Despite some recent improvement, the number of referrals is still inadequate.	More partners should be supported and engaged to strengthen the nationwide victim referral network. (MoI, MoWA, MoLSA)
There is no community-based organization with expertise and clear programmatic focus on trafficking issues.	The capacity of communities should be strengthened in detecting cases, referring victims for assistance and monitoring reintegration activities. (MoWA, MoE)
Female victims are often unable to seek the assistance that they need, due to social stigma attached to sexual exploitation.	The communities should be educated to eliminate discrimination towards trafficked persons, particularly women, and their sustainable reintegration should be enabled. (MoWA, MoE)

## *Chapter I: Introduction*

This year is the 200th anniversary of the abolition of the transatlantic slave trade. The movement led by British parliamentarian William Wilberforce took decades to succeed. It required a nation to deepen and expand its definition of human dignity. It required a nation to declare that moral values outweigh commercial interests. Nothing less is required today of every nation taking up the contemporary challenge to eliminate human trafficking, a form of modern-day slavery.

*Trafficking in Persons Report 2007  
U.S. Department of State*

A wide range of estimates exists on the scope and magnitude of modern-day slavery, both internal and cross-border. The International Labour Organization (ILO) – the United Nations (UN) agency estimates that there are 12.3 million people in forced labour, bonded labour, forced child labour and sexual servitude at any given time; other estimates range from 4 million to 27 million all over the world<sup>2</sup>. Based on the aggregate information relating to 12,627 victims of trafficking assisted by IOM from 1999 to 2007 stored in the IOM Global Human Trafficking Database<sup>3</sup>, approximately 83 per cent of victims were women and girls and over 16 per cent were minors. The majority (81 per cent) were cases of cross-border trafficking while 19 per cent of victims have been trafficked internally. The purpose of trafficking has mostly been sexual exploitation (72 per cent) while a significant number of cases (22 per cent) involved labour exploitation. Human traffickers prey on the vulnerable. Their targets are often children and young women, and their ploys are creative and ruthless, designed to trick, coerce and win confidence of potential victims. Very often these ruses involve promises of a better life through employment (67 per cent of IOM's victim caseload), marriage (2 per cent), educational opportunities (1 per cent) or others (6 per cent). The remaining cases (24 per cent) involve forcible means such as kidnapping and sale. Some families give children to adults, often relatives, who promise education and opportunity – but sell the children into

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<sup>2</sup> U.S. Department of State, *Trafficking in Persons Report 2006*, June 2006

<sup>3</sup> The International Organization for Migration (IOM) uses a unique tool, the Global Human Trafficking Database – or what is referred to internally as the Counter Trafficking Module (CTM) database to collect information and monitor IOM's assistance to Victims of Trafficking (VoT). It is a standardized tool available to all IOM missions and to those that run CT assistance programmes in particular. The database stores information from two questionnaires after the victim has been referred to IOM: the Screening Interview that assesses the individual's eligibility to be assisted by one of IOM's CT projects; the Assistance Interview that captures a more in-depth set of information regarding the trafficking process. It is important to note that the data collected is project-specific; for the time being it only captures data from IOM projects. The total population of trafficked persons in a given country at a given time is not known; only those victims of trafficking who have been directly assisted by IOM and registered into the CTM appear in the CTM database statistics.

exploitative situations instead. The nationalities of trafficked people are as diverse as the world's cultures.

Trafficking in persons primarily involves the violation of human rights with a detriment to psychological or/and physical health of victims, and compared to narcotics and arms trafficking, it has not been seen as posing a significant danger to global security. On the other hand, the broader phenomena of irregular migration are of considerable concern to the destination countries, and especially to the EU as its borders expand eastward. Since 9/11 and the international involvement in the reconstruction work of Afghanistan, the wider international community has also commonly perceived links between irregular migration and terrorism, and this has brought increased attention to the issues of human trafficking in the region<sup>4</sup>.

The IOM initiated its research *Trafficking in Persons*<sup>5</sup>, back in 2004, focusing on the trafficking of Afghans, particularly women and children, within and from Afghanistan, and of the third country nationals into and through Afghanistan. The research, primarily induced by media articles and reports issued by NGOs and UN agencies, addressing broader human rights issues in Afghanistan, indicated the prevalence of trafficking in persons in general while the current study is predominantly based on first-hand data from field survey.

The study also examines issues related to child trafficking because the recently published studies revealed that child labourers in Afghanistan are lacking all forms of protection and care by the state and their number is increasing on a daily basis. Furthermore, Save the Children – Sweden in its report “*Children and Their Rights in Afghanistan*”, states that the problem of child trafficking is an increasing problem, and many children, some as young as 8 years old, seem to primarily originate from the North Eastern region of the country. The trafficking networks are said to be local groups usually with links to “agents” in neighbouring countries.

## 1.1 Purpose

The main purpose of the report is to provide its readers an in-depth analysis of the trafficking phenomenon in Afghanistan. Furthermore, this research identifies the crucial issues that provide liberty to the vile and heinous traffickers of humans to operate copiously. The report also gives an insight into the impact of counter trafficking endeavours of the various players in addressing trafficking issues in Afghanistan, with a view towards further developing effective counter trafficking strategies in the future.

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<sup>4</sup> Musa Khan Jalalzai, *Human Trafficking and Future Security Threats*, Lahore, 2006

<sup>5</sup> IOM, *Trafficking in Persons – An Analysis of Afghanistan*, January 2004

## 1.2 Methodology

IOM commissioned Afghan Management and Marketing Consultants (AMMC) to conduct the field survey, using a multi-faceted approach, including interviews with experts working on counter trafficking, community informants and victims of trafficking and relevant crimes as well as a literature review.

The AMMC developed three different questionnaires. The first questionnaire was devised for representatives of organizations working on issues related to trafficking in Afghanistan, with qualitative questions predominantly on the major activities the organizations are undertaking and their progress or achievements hitherto. The second questionnaire was targeted for community informants such as teachers, religious leaders and community elders who could give insight into common perception and awareness level of human trafficking and pertinent issues. The third questionnaire was targeted for victims, wherein questions regarding their stories of persecution and other details regarding the perpetrators were placed.

A pilot survey was conducted in Kabul, to evaluate the efficacy of the questionnaires while including the missing issues and axing the redundant ones. After all the necessary revisions, the fieldwork was first conducted in Kabul followed by nine border provinces, namely Khost, Nangarhar, Herat, Balkh, Faryab, Kunduz, Badakhshan, Kandahar and Farah, from July to September 2007.

Using the first questionnaire, six experts representing the Ministry of Interior (MoI), Ministry of Labor and Social Affairs, Martyrs and Disabled (MoLSAMD), Ministry of Women's Affairs (MoWA), Ministry of Justice, Afghan Independent Human Rights Commission (AIHRC) and the Humanitarian Assistance for the Women and Children of Afghanistan (HAWCA) were interviewed in Kabul. From this activity, the research team obtained detailed information not only on their existing counter trafficking efforts but also on victim profiles which they had in their records.

A total of 220 community informants were interviewed in Kabul and nine provinces. Relatively educated members of community such as teachers, religious leaders and doctors were randomly selected and asked to share their views on trafficking or related cases in their vicinities as well as to help the research team identify possible victims of trafficking.

In addition, a total of 82 individuals were interviewed in Kabul and nine provinces of Afghanistan. All of them were identified based on the information shared by community informants and requested for an interview on a voluntary basis. Out of the total, 20 were confirmed cases of trafficking while 43 were cases of kidnapping for ransom and 19 were smuggling cases. The majority of those interviewed were therefore, confirmed to be victims of kidnapping and smuggled migrants, instead of trafficked victims. This is largely due to the fact that most informants were

confused about the three different concepts and their referrals were often inaccurate. It was also difficult to secure the victim's or her/his family's consent to be interviewed. To supplement the primary empirical research findings, the research team were also able to draw upon non-personal data relating to 115 trafficked victims assisted by IOM Afghanistan from January 2006 till March 2008. Data was collected through interviews with the victim of trafficking, conducted by IOM case workers at the point of referral to IOM for assistance.

### Map of Afghanistan and Provinces Where Field Survey Was Conducted



The information obtained during the three-month fieldwork and IOM data were collated in Statistical Package for Social Sciences (SPSS) software for detailed analysis.

In parallel to the field work, a literature review was carried out. It has been found that there is a considerable paucity of information regarding human trafficking issues in Afghanistan; nevertheless, the studies conducted on the relevant issues in Central Asian Republics, USA and Bangladesh were closely examined.

### 1.3 Constraints and Limitations

#### *Cultural and social constraints*

“In the predominantly Muslim societies of the region, it is almost taboo to openly discuss the trafficking of women for prostitution”, says Musa Khan Jalalzai<sup>6</sup>, while Shmasuddin Tanvir, AIHRC’s Director in Kandahar was recorded as saying, “No doubt there are numerous other cases (of child sexual abuse) which, due to a variety of social restrictions, go unreported.” Only 29 per cent of the child sexual abuse cases are actually registered (in Afghanistan), a joint AIHRC and Save the Children – Sweden report on child sexual abuse revealed<sup>7</sup>. In short, one can ascribe the non-availability of information to the cultural and social constraints of Afghan society, since regardless of whether the act is voluntary or forced, the shame factor is significant enough that families will often not report a member trafficked for sexual servitude in order to avoid stigmatization by the community.

#### *Limited access due to insecurity*

Although AMMC is an Afghan organization with teams that can access far-flung areas, travelling in the south of Afghanistan, particularly the areas bordering with Pakistan, is perilous. The teams had to be very specific in timing of their travels to keep themselves out of any grave incident.

#### *Lack of understanding of trafficking concept*

There was also difficulty in identifying a *bona fide* trafficking case in the field as most people could not distinguish human trafficking from cases of smuggling and kidnapping. Travelling in rural Afghanistan was also a tough exercise as one must travel for hours to reach a village and there have been a lot of incidents where the researcher managed to come to the destination just to find that the referred case concerned human smuggling or kidnapping, instead of human trafficking.

The other set of data on IOM-assisted victims of trafficking, used to augment the sample size in this study, cannot be considered representative of trafficking cases in Afghanistan in general as the majority of recorded cases concern Chinese women forced into prostitution in Kabul due to a series of police raids that took place during 2006 and 2007 and subsequent victim referrals to IOM.

Human trafficking cases are mostly recorded by various organizations using their own definition and format, and in several instances, discrepancies were found in the case records of the same victim by two different organizations. Thus there is a great need for bringing uniformity in the terminology and the victim identification and registration processes. The Ministry of Justice has drafted the Law on Combating Kidnapping and Trafficking in Persons but it has not been enacted;

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<sup>6</sup> Musa Khan Jalalzai, Human Trafficking and Future Security Threats, 2006

<sup>7</sup> Afghanistan: War, Poverty and Ignorance fuel sexual abuse of children, <http://www.irinnews.org> , 6 June 2007

therefore, Afghanistan is yet to establish an official definition of the crime in its own legal framework.

## 1.4 Definition of Trafficking in Persons

### *Trafficking Protocol*

Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime<sup>8</sup> defines the key terms as follows:

- (a) *"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*
- (b) *The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*
- (c) *The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;*
- (d) *"Child" shall mean any person under eighteen years of age.*

Many commentators have noted that, whilst on one level the protocol has provided us with clear and internationally agreed definitions of trafficking, the debate continues as to whether it is possible to draw such boundaries and the precise meaning of the definitions themselves. The Protocol has not resolved the contentious definition issues, especially since the term “exploitation” is not clearly defined either here or in the other conventions<sup>9</sup>.

### *U.S. Trafficking Victims Protection Act*

Some countries have their own counter trafficking law with slightly different definitions of the terms. According to the U.S. law called the “Trafficking Victims Protection Act (TVPA, enacted in 2000)”, trafficking in persons is defined as follows:

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<sup>8</sup> G.A. Res. 25, annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/45/49 (Vol. I) (2001), entered into force 25 December 2003. Afghanistan is not yet a party to this protocol.

<sup>9</sup> IOM, *Fertile Fields: Trafficking in Persons in Central Asia*, April 2005



*“All acts involved in the transport, harboring, or sale of persons within national or across international borders through coercion, force, kidnapping, deception or fraud, for purpose of placing persons in situations of forced labour or services, such as forced prostitution, domestic servitude, debt bondage or other slavery-like practice.”*

A unique aspect of the TVPA is that it provides tools for the U.S. government to combat trafficking in persons, both domestically and abroad and creates a global monitoring mechanism through the Trafficking in Persons (TIP) Report. The Department of State produces this annual report assessing the situation and response in each country with a significant number of victims of severe forms of trafficking in persons. Based on the level of government efforts to combat trafficking, countries in the annual report are rated in three Tiers: Tier I (Countries that fully comply with the act’s minimum standards for the elimination of trafficking), Tier II (Countries that do not fully comply with the minimum standards but are making significant efforts to bring themselves into compliance), Tier II Watch List (Countries on Tier II requiring special scrutiny because of high or significantly increasing number of victims, failure to provide evidence of increasing efforts to combat trafficking in persons; or an assessment as Tier II based on commitment to take action over the next year) and Tier III (Countries that neither satisfy the minimum standards nor demonstrate a significant effort to come into compliance. Countries in this tier are subject to potential non-humanitarian and non-trade sanctions)<sup>10</sup>.

### *SAARC Convention*

The South Asian Association for Regional Cooperation (SAARC) has also devised a definition for trafficking in the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002). Afghanistan, which has been inducted in the SAARC countries recently, was not a signatory to this convention and its provisions on trafficking do not comply with the international Protocol in a sense that the purpose of trafficking is limited to just prostitution. Nevertheless the definition under this convention reads:

*Trafficking means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking.*

### *Afghan Legislation*

In terms of the Afghan domestic legislation, the Government’s efforts in drafting a law tentatively entitled “Law on Combating Kidnapping and Trafficking in Persons” are underway and Article 3 of the draft law explains the term as:

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<sup>10</sup> U.S. Department of State, Bureau of Public Affairs , Facts About Human Trafficking, 2004

*“Taking possession of a person for the purpose of exploiting him/her for money or other financial gains, by taking advantage of poor economic and desperate conditions of the victim or using other deceptive means in order to obtain the consent of the victim or his/her guardian”*

Given that Afghanistan is not a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, or the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and that the Afghan law has not yet been finalized, one cannot single out a legally binding definition in the Afghan context; however, most of the relevant definitions contain the following elements and the term “trafficking in persons” shall be associated with all three elements for the purpose of this study:

- a. An act such as movement, harbouring, receipt and trade/sales of a person,
- b. A means to bring about an act such as deception, fraud, violence and coercion (although for minors not necessary),
- c. A purpose which is an exploitative end state of victims such as forced labour, exploitation of prostitution of others and servitude.

### **1.5 Definitions of Relevant Terms**

Other than the definitions of trafficking, the major – albeit distinct in definition - concepts relevant to trafficking issues are given hereunder.

#### *Human smuggling*

Protocol against the Smuggling of Migrants by Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime <sup>11</sup> defines Human Smuggling as the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

#### *Kidnapping*

For the purpose of the study, kidnapping should be considered as the unlawful forcible detention of an individual or group of individuals, usually accomplished for the purpose of extorting economic or political benefit from the victim of the kidnapping or from a third party.

#### *Children*

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<sup>11</sup> G.A. Res. 55/25, annex III, U.N. GAOR, 55th Sess., Supp. No. 49, at 65, U.N. Doc. A/45/49 (Vol. I) (2001), entered into force 28 January 2004. Afghanistan is not yet a party to this protocol.

The International Convention on the Rights of the Child (CRC)<sup>12</sup> states that a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier. Article 4 of the Afghan Juvenile Law<sup>13</sup> describes a child as a person who is under 18 years old; therefore, the CRC definition of a child can be firmly applied to the Afghan context.

### *Prostitution*

Prostitution is considered legal in some countries where it is considered a freely chosen occupation and the governments seek to improve the sex workers' conditions by regularizing work permits and mandatory medical certificates. Prostitution and/ or activities associated with it, including soliciting and advertising, are criminal offences in other countries from the moral perspectives. In those countries, prostitution is often considered a manifestation of the violence of men against women. Others recognize people's ownership and rights over their own bodies, and argue that the law should not penalize prostitutes themselves while prohibiting purchasing and facilitating sexual services. In the context of South Asia, the SAARC Convention deems prostitution exploitative in itself and defines the act as "the sexual exploitation or abuse of persons for commercial purposes".

There is, however, no single internationally agreed upon definition or consensus on whether prostitution should be considered a legitimate form of employment or a form of exploitation, whether forced or not. Afghan law has no specific provision concerning prostitution while rendering it highly criminal as a form of fornication. For the purpose of this study, prostitution shall be broadly understood as the exchange of sexual services for some form of payment such as money and drugs, irrespective of moral issues.

### *Slavery, Institutions and Practices Similar to Slavery*

Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.<sup>14</sup> Other slavery-like practices are internationally defined as one of the following: 1) Debt bondage - the status or condition arising from a pledge by a debtor of his personal services, if the value of those services is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined; 2) Serfdom – the status or condition of a tenant who is bound to live and labour on land belonging to another person, whether for reward or not, and is not free to change his status; 3) Any institution or practice whereby a woman, without the right to refuse, is given in marriage on payment of a consideration in money or in kind to her parents, or any other person or group, or the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received,

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<sup>12</sup> G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force 2 September 1990

<sup>13</sup> No. 765/ 19.12.1383

<sup>14</sup> Slavery Convention, 60 L.N.T.S 253, entered into force 9 March 1927

or a woman on the death of her husband is liable to be inherited by another person; and 4) Any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or of his labour<sup>15</sup>.

### *Rape*

Although no definition of rape can be found in international law, The International Criminal Tribunal for Rwanda set precedence through the inclusion of rape as a form of genocide, defining the act as a physical invasion of a sexual nature, committed on a person under circumstances that are coercive.<sup>16</sup> The International Criminal Tribunal for Former Yugoslavia further set three types of circumstances which would render those sexual acts criminal: 1) the sexual activity is accompanied by force or threat of force to the victim or a third party; 2) the sexual activity is accompanied by force or a variety of other specified circumstances which made the victim particularly vulnerable or negated her ability to make an informed refusal; or 3) the sexual activity occurs without the consent of the victim<sup>17</sup>.

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<sup>15</sup> Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 U.N.T.S. 3, entered into force 30 April 1957

<sup>16</sup> The International Criminal Tribunal for Rwanda set precedence in the 1998 Akayesu conviction and defined rape making it applicable to both men and women (not gender-specific) and considering “coercion” as not exclusive to force, but including threats and intimidation.

<sup>17</sup> The Foca case, the Trial Chamber Judgment, para.442, 22 Feb. 2001

## *Chapter II: Push Factors of Trafficking in Afghanistan*

Afghanistan, located north and west of Pakistan, east of Iran, west of China, and south of Turkmenistan, Uzbekistan, and Tajikistan, has always served as a crossroad for the regional trade and people's cross-border movements.

The Central Statistics Office of Afghanistan currently estimates the total population of Afghanistan at 25 million<sup>18</sup>. The main ethnic groups are Pashtun, 42 per cent; Tajik, 27 per cent; Hazara, 9 per cent; Uzbek, 9 per cent; Aimak (a Persian-speaking nomadic group), 4 per cent; Turkmen, 3 per cent; and Baloch, 2 per cent. The largest remaining nomadic group is the Kuchis, a Pashtun group whose population has dwindled to about 1.5 million since 1979<sup>19</sup>.

The Pashtuns, the largest ethnic group in Afghanistan mainly in the south and east, are straddling the Afghan-Pakistan border and maintain strong ethnic identity. The Pashtun majority areas in western Pakistan include the North-West Frontier Province, Federally Administered Tribal Areas, Mianwali district and the Northern portion of Baluchistan. The trans-boundary tribal structures can also be observed across the Afghan-Iranian border. The Baluch are the predominant group of people inhabiting the region of Baluchistan in Iran and Pakistan as well as neighbouring areas of Afghanistan.

Against the background of such a complex ethnic composition, Afghanistan faces a variety of historical, economic, social and security factors that make Afghan men, women and children very vulnerable.

### **2.1 History of Conflict**

Historically, Afghanistan was a Cold War battleground before a fratricidal civil war festered through much of the 1990s. Despite several temporary alliances, struggles among the armed groups continued until the Taliban gained control of most of the country in 1996. The Taliban used an extremist interpretation of Islam to assert repressive control of society while the economy remained in ruins and most government services ceased. Following the events of September 11<sup>th</sup> 2001 in the United States, a coalition was formed, led by the USA and including key Afghan elements, to dismember the terrorist network believed to be operating in Afghanistan under the protection and with the support of the Taliban. As a result of the coalition's actions, the Taliban fell from power in Kabul in mid November of 2001 and from its stronghold in Kandahar not long afterward.

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<sup>18</sup> The last census was conducted in 1979. The initiative to conduct another census has been underway but has recently been postponed.

<sup>19</sup> Library of Congress – Federal Research Division, Country Profile: Afghanistan, May 2006

The Afghanistan Interim Authority (AIA), under the leadership of Hamid Karzai, was established soon thereafter, amid pledges of substantial assistance to establish representative Afghan institutions, and to rebuild and rehabilitate the war-torn country. Following the political roadmap laid out in Bonn, the country has since enacted a new moderate Islamic Constitution and held the election of a President and National Assembly. However, the ultimate goal of a stable, sustainable state is increasingly vulnerable. The south and eastern regions bordering Pakistan see an ongoing insurgency which in 2007 has spread west and to the central provinces around Kabul, along with a growing campaign of terrorist violence in the urban centres. Opium production has exploded; Afghanistan has become the world's predominant supplier of illicit opiates, accounting for over 90 per cent of world production and trade<sup>20</sup>. Total gross revenues from the illegal drug trade in Afghanistan are equivalent to over one-third of licit GDP. Weakening of law and order also helps traffickers carry out its activities with impunity. The tactics of criminal groups involved in illicit activities such as drug smuggling and human trafficking are more sophisticated than ever and their well-established networks certainly contribute to the trafficking operations beyond borders.

Largely because of protracted military conflict, Afghanistan in 2004 had the highest proportion of widows and orphans in the world. Large numbers of disabled individuals and former members of regional militias also lack a means of support, thus are easy targets of traffickers.

## 2.2 Insecurity

While fierce battles rage in southern Afghanistan, insurgent attacks in the east creep towards the provinces surrounding Kabul and a new campaign of terrorist violence targets urban centres. Despite six years of efforts by the government, international community and international security forces, there is still a long list of anti-government elements such as the Taliban, Al-Qaeda, warlords, illegal armed groups and drug barons that exploits the basic rights of common people with impunity.

In 2007 the level of insurgent and terrorist activity increased sharply from that of the previous year. An average of 566 incidents per month was recorded in 2007, compared to 425 per month in the previous year. Of the 8,000 conflict-related fatalities in 2007, over 1,500 were civilians<sup>21</sup>.

The tactics of the anti-Government elements changed noticeably in 2007. The superiority of Afghan and international security forces in conventional battles has forced opposing groups to adopt small-scale tactics aimed mainly at the Afghan National Security Forces and, in some cases, civilians. Improvised explosive devices, suicide attacks, assassinations and abductions are examples

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<sup>20</sup> The World Bank and the DFID, Afghanistan: Economic Incentives and Development Initiatives to Reduce Opium Production, February 2008

<sup>21</sup> UN General Assembly Security Council, The Situation in Afghanistan and Its Implications for International Peace and Security (A/62/722-S/2008/159), March 2008

of such tactics. There were 160 actual suicide attacks in 2007, with a further 68 thwarted attempts, compared to 123 actual and 17 thwarted in 2006.

With deteriorating security situation, the outreach of monitoring agencies is getting limited and the protection issues concerning women and children have become more challenging than ever. The growing insurgency is certainly paving the way for traffickers to prey ruthlessly with much more liberty than required.

*The incident happened in 2005 in a rural area in the Northern region where an Afghan couple was living with four children: two boys and two girls. One day some Taliban soldiers broke into their house, asking for their eldest daughter at the age of 16 years back then. Her mother refused, reasoning that she was too young for marriage. They beat her and her husband unmercifully and left. After a couple of days they came back with the same request. Having met the mother's resistance again, they splashed the acid on her body and took away the daughter. The Taliban also burned their house. Mother reported the case to the police and asked for assistance from various governmental and some international agencies but they were "powerless" before the Taliban, according to her. The Taliban came again after a while and threatened to kill everyone if she continues to seek assistance. She finally left the province for Kabul with her second daughter, while her husband went hiding in another province with two of their sons. The family is currently receiving IOM's assistance while seeking asylum through UNHCR. (IOM case record)*

### 2.3 Population Displacement

The Afghan refugee flow began in April 1978, reaching a peak during the first half of 1981 when an estimated 4,700 Afghans crossed the Pakistan border each day. The flow ebbed and surged in response to Soviet offensives, so that by the fall of 1989, the number of Afghan refugees was estimated at 3.2 million in Pakistan, 2.2 million in Iran, and several hundred thousands resettled in scattered communities throughout the world. Afghans became the largest single concentration of refugees in the world<sup>22</sup>. Later on there was an outflow of Afghan refugees during the civil war and the Taliban regime. In spite of a large number of voluntary returns after the fall of the Taliban regime, Afghanistan still has approximately 3 million refugees in its neighbouring countries, which expressed their intentions to repatriate all Afghans by 2009. Many of these Afghans have no land, housing or means of livelihood in Afghanistan and live difficult lives upon return.

Aside from the refugees, hundreds of thousands people are constantly compelled to flee their places of residence and settled somewhere else as Internally Displaced Persons (IDPs). The latest data indicate that there are over 153,718 persons still displaced within Afghanistan, mainly living

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<sup>22</sup> George Groenewold , Millennium Development Indicators of Education, Employment and Gender Equality of Afghan Refugees in Pakistan, 2006

in camps (particularly in Southern region in Maiwand, Mukhtar, Zahri Dasht and Panjwayi camps) and camp-like situations<sup>23</sup>. Most of them have been displaced as a result of insecurity or natural disasters and live in poor or extremely poor conditions.

## 2.4 Poverty

Economic statistics for Afghanistan traditionally are inexact. Afghanistan's economy, which always has been one of the poorest in the world, was shattered by the conflicts in the 1980s and the 1990s. Industry, much of which depended on agricultural output, suffered as well. After the conflicts, small-scale trade in urban centres and agriculture in some regions revived quickly; however, damage to the infrastructure will take much longer to repair. The 2004 International Conference on Afghanistan pledged USD 8.3 billion for economic infrastructure reconstruction during the following three years. At the 2006 London Conference on Afghanistan, international donors pledged USD 10.4 billion to the Interim Afghanistan National Development Strategy, which includes economic and social components, during the ensuing five years.

Exacerbated by security problems, however, developmental progress has been painfully slow with Afghanistan having some of the lowest social indicators in the world. Despite billions of dollars in aid, Afghanistan ranks the 174th out of 178 countries, which is the lowest outside Africa, according to the 2007 UNDP report<sup>24</sup>. This ranking on a global index of human development is a composite indicator that measures education, longevity, and economic performance. Although it says the GDP per capita has increased from USD 683 in 2002 to USD 964 in 2005, 6.6 million Afghans still do not meet their minimum food requirements<sup>25</sup>, while 42 per cent of the population are said to live under the poverty line according to a survey conducted in spring 2007<sup>26</sup>. The GDP estimates also vary greatly, depending on the source of information, and according to the IMF estimate, Afghanistan's per capita GDP was merely USD 300 between 2005 and 2006<sup>27</sup>.

### *Child labour*

Afghanistan has one of the highest proportions of school-age (7-12 years) children in the world; about 1 in 5 Afghans is a school-age child<sup>28</sup>. There is a positive trend of Afghan children going to school for the last 5 years with the net enrolment rate of primary school at above 50 per cent; however, there are estimates that up to one-third of the primary school age children are involved in some form of labour.<sup>29</sup> According to the International Labour Organization (ILO), 92.5 per cent

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<sup>23</sup> UNHCR, Operational Information Monthly Summary Report, January 2008

<sup>24</sup> UNDP and Kabul University, Afghanistan Human Development Report 2007: Bridging Modernity and Tradition, Rule of Law and the Search for Justice, 2007

<sup>25</sup> *ibid*

<sup>26</sup> Afghanistan National Development Strategy (ANDS) 2008-2013, p28, 2008

<sup>27</sup> International Monetary Fund, Country Report No. 07/252, July 2007

<sup>28</sup> UNICEF, General Question and Answer Sheet, 2007

<sup>29</sup> *ibid*



of child labourers from 12 to 17 years of age work for more than 42 hours a week and the majority are exposed to adverse working conditions: a polluted environment (73.3%), risks of injuries (60.1%), dangerous equipments (57.6%), direct sunlight (54.9%) and extreme temperatures and noise (51.4%), among others<sup>30</sup>. Child labourers are thus more prone to danger than any other segment of the child community, serving as a large pool of potential targets for human trafficking in Afghanistan.

### *Sale of children*

Due to economic reasons, the sale of children by destitute families, including their own parents, is commonly seen in Afghanistan. In January 2008 alone, there were reports on the sale of three girls in separate incidents by parents blaming extreme poverty for their actions and it has sparked concern about the safety of poor children in the country<sup>31</sup>. In early January, a displaced family in Shaydayee camp in Herat province is reported to have sold one of their twin four-month old daughters for USD 40. On 28 January, the parents of a nine-month old girl in Kunduz province sold their daughter for USD 10. The mother's lower limbs were paralysed while the father was said to be sick and unable to work. In neighbouring Takhar province, another nine-month old girl was sold for USD 240. All the parents denied any wrong doing but explained their inability to feed their children. On the other hand, those who bought the children also felt they had done nothing wrong as they intended to protect the children from extreme poverty.

## **2.5 Social Practices**

### *Social status of women*

Traditionally, the Afghan society is patriarchal in its nature, and women often are considered the "property" of men; they are father's child when born, brother's sister when grown up, husband's wife when married and son's mother when old. Therefore women predominantly lack identity of themselves in society and are not able to exercise decision making power in determining their own fate till date. Forced marriages are common throughout the country and women's will is considered so rarely to the extent that an estimated total of 100 women resorted to self-immolation in desperation in the western province of Herat alone in 2006<sup>32</sup>. Most of these were in protest against their marriages forcibly arranged by their family members. Monetary transactions or agreements on debt relief are often made in trading Afghan women as if they were commodities.

*A girl was 12 years old when she got married to a man. She lived with him for 9 years and had four children. When he got bored of her, he sold her to his landlord who was also a*

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<sup>30</sup> ILO/ Alti Consulting, A Rapid Assessment of Child Labourers in Kabul, 2008

<sup>31</sup> Outlook News, "Stop Sale of Children", 5 February 2008

<sup>32</sup> Information provided by Ms. Kaori Ishikawa, Gender Specialist, United Nations Population Fund (UNFPA).

*human smuggler to Saudi Arabia. Later she was sold to another man seeking a woman who could give him a male heir. She gave him four children but only one of them turned out to be a boy. The man got upset and handed her to another person who in turn sold her back to her first husband. He only noticed he paid for the same woman he sold off years ago when he brought her back home. (IRIN News, "I was sold four times," August 2007)*

*Zeba is 15 years old, originally from the Southeast region. Her parents died when she was a little child. Her cousin, Ali, took her under custody and she grew up with his family as a refugee in Pakistan. One day Ali told Zeba that he was going to take her on a trip and she agreed. Zeba was handed to a man called Abdullah in Kabul and never saw Ali again. She was left alone with Abdulla and a woman living in his house. Abdulla later told Zeba that he spent a lot of money for her and that she was his wife now. Zeba wanted to refuse him but was afraid that he would kill her if she did. She was not even able to communicate with Abdulla well as he is a Dari speaker and she speaks only Pashto. Zeba was raped a number of times after the nikka (marriage) ceremony. Twenty days later, Zeba had a chance to talk with her neighbour who understood Pashto and told her story. While talking, the woman living in Abdulla's house came out and started beating her. The neighbour informed police and they arrested Abdullah (IOM case record, 2008).*

### *Violence against women*

While violence against women is present in varying degrees and forms in every society, the situation for many women in Afghanistan is dire. The 2008 UNIFEM report *Violence against Women Primary Database* states that, out of the 1,011 violent incidents in Afghanistan recorded in the Violence against Women (VAW) database, 89 per cent of the cases were domestic violence. The majority of incidents (53 %) were committed by family members such as father, mother and brothers while 30 per cent were committed by partners, including husband, fiancée and boyfriend. Physical attack (22 %) and forced marriage (16 %) were found to be the most common types of violence. It is disputable whether the below example is an actual case of trafficking<sup>33</sup>; however, the incident portrays the prevalence of a violent attitude towards women in general, which without doubt contributes to an increase in trafficking cases.

*Karima, 17 years old, grew up in Pakistan, and was sold off to marry a 40-year-old man, Mustafa. They moved to the Southern region of Afghanistan, and lived there for a month. Mustafa was jobless and he was always angry with her. One day his brother came to visit their house while Mustafa was absent. Furious of this incident, Mustafa beat Karima badly without giving any specific reason. Two days later he beat her again and threw hot water on her feet and other parts of her body. She lost her consciousness and when she awoke,*

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<sup>33</sup> Based on the assessment interview, IOM determined Karima's case to be a case of domestic violence rather than that of human trafficking and referred her to another organization for assistance.

*she realized that her head had been completely shaved. After two days, Mustafa beat her again until she became unconscious. She later regained consciousness to find that her nose and ears were cut off. Karima was immediately transferred to a hospital in Kabul by the police. Mustafa ran away to Iran and has not been arrested yet. (IOM case record, 2008)*

### *Women as a tool of dispute settlements*

The practice of using women and girls for dispute settlements has been a part of the Afghan society for centuries. If a feud arises between two families (i.e. a person from one of the families kills a person in the other family), the local *jirga* (traditional council of elders) decides the fate of one of the girls or women from the family of the perpetrator. The selected girl (or woman) is usually ordered to marry someone in the victim's family and she has no other choice but to accept the decision. Although the tradition was originally based on the idea that two families would be joined and their problems would end, the girl in question always remains a member of the rival family in practice and extreme forms of physical and psychological violence are often inflicted upon her, resulting in self-immolation and other forms of suicides. No decision is made with the consent of the girl and she is incarcerated for the crime that a man in her family has committed and treated as a slave for the rest of her life. This form of exploitation can be seen in the whole of Afghanistan as well as Pashtun areas of Pakistan. This practice is called "Bad" in Afghanistan and "Swara" in Pakistan.

*A father gave his daughter at 17 years of age to Shah to settle their dispute after his son killed Shah's brother. It was during the Taliban era and Shah was in refuge with his family in Iran. After the fall of the Taliban, Shah came back to Afghanistan, but as he kept the girl in such harsh conditions that she died of illness on the way. When Shah reached the Western region, he came to her father's house and demanded another daughter, instead. Shah said that he would start their dispute again unless he receives another daughter. The father went to the court but the case is still pending for decision. (Field survey in Farah province, 2007)*

### *Child abuse*

Sexual exploitation of boys can be found in Afghanistan. These boys are known as boys without beard, or *bacha bereesh*, and kept by adult men, often considered powerful in society. They are not only made to dance in social gatherings and parties, but also sexually abused in many instances. It is an age old practice that has led to some of the boy dancers being turned into sex slaves by wealthy patrons who dress the boys up as girls, shower them with gifts and keep them as 'mistresses'.<sup>34</sup> It has been reported by many community informants that certain people consider

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<sup>34</sup> Reuters, Afghan boy dancers sexually abused by former warlords, <http://www.reuters.com/article/mapNews/idUSISL1848920071119>, November 2007

having a good looking *bacha bereesh* even as some sort of a status symbol. Some of these boys are victims of trafficking.

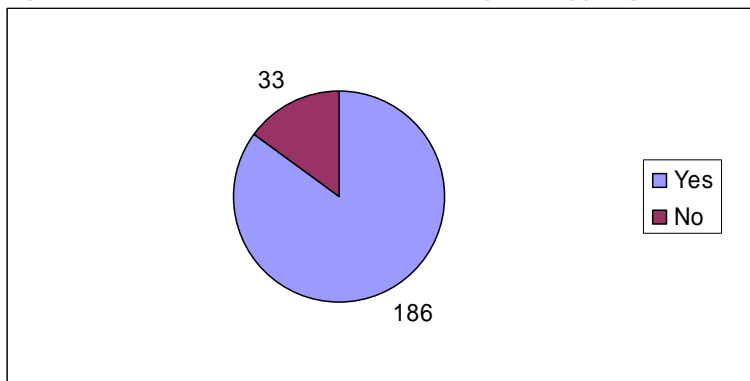
*A 15-year-old boy was kidnapped from Pakistan while working. He was then brought to the Northern region through the land border crossing point between Afghanistan and Pakistan by traffickers. In the destination province, he was forced to work. One day he finally escaped but got arrested by the police. The local commander took him home and made him work as a servant and perform dancing at wedding parties for his friends. He was also sexually exploited occasionally. The boy was made to wear the army uniform and accompany the commander in public. His freedom of movement was limited and the commander behaved as if the boy was his own property. He finally found a chance to run away and went back to Pakistan with IOM's assistance. (IOM case record)*

## Chapter III: Trafficking Trends in Afghanistan

### 3.1 General Perception at the Community Level

To get an idea of what the general population thinks regarding the problem of trafficking, a total of 219 individuals such as teachers, community leaders and doctors, were interviewed as key informants during a data-gathering exercise in nine provinces of Afghanistan.

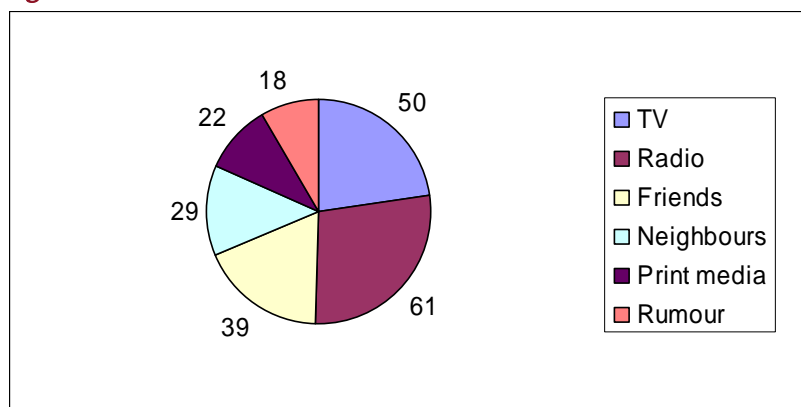
**Figure 1: Have You Heard of Trafficking/ Smuggling Cases?**



(n= 219 community informants)

When asked whether they have heard of any cases of trafficking or smuggling of persons, 186 persons (85%) said that they have heard; however, it must be noted that the concepts of kidnapping, smuggling and trafficking are so intermingled in the minds of people that interviewers rarely came across any case referred as a trafficking case by community informants, which was truly a trafficking case. In addition, when asked about how they learned about these cases, 111 persons (51%) pointed TV and Radio as their main sources of information, while 86 persons (39%) said that they learned by word of mouth through friends or neighbours and only 22 persons (10%) answered print media such as newspapers, magazines and books. The result indicates that awareness raising campaigns should target broadcast media, particularly radio as TV needs electricity to run and has only limited or no outreach in far-flung rural areas.

**Figure 2: Source of Information**



(n= 219 community informants)

### 3.2 Demographics of Trafficked Victims

The research has attained a dataset regarding victims that provides useful information and a broader understanding of human trafficking in Afghanistan. During the field survey, a total of 82 persons were interviewed in Kabul and nine border provinces, of which 20 were confirmed to be victims of trafficking (VoT; hereafter referred to as respondent VoTs), 19 persons were found to be smuggled migrants and 43 victims of kidnapping.

**Table 1: Number of Victims/Migrants Interviewed**

No	Province	Trafficked	Smuggled	Kidnapped	Total
1	Nangarhar	2	4	6	12
2	Khost	2	1	6	9
3	Kandahar	1	0	5	6
4	Farah	0	0	9	9
5	Herat	7	3	2	12
6	Faryab	5	4	2	11
7	Balkh	0	2	3	5
8	Kunduz	1	5	3	9
9	Badakhshan	0	0	5	5
10	Kabul	2	0	2	4
<b>Total</b>		<b>20</b>	<b>19</b>	<b>43</b>	<b>82</b>

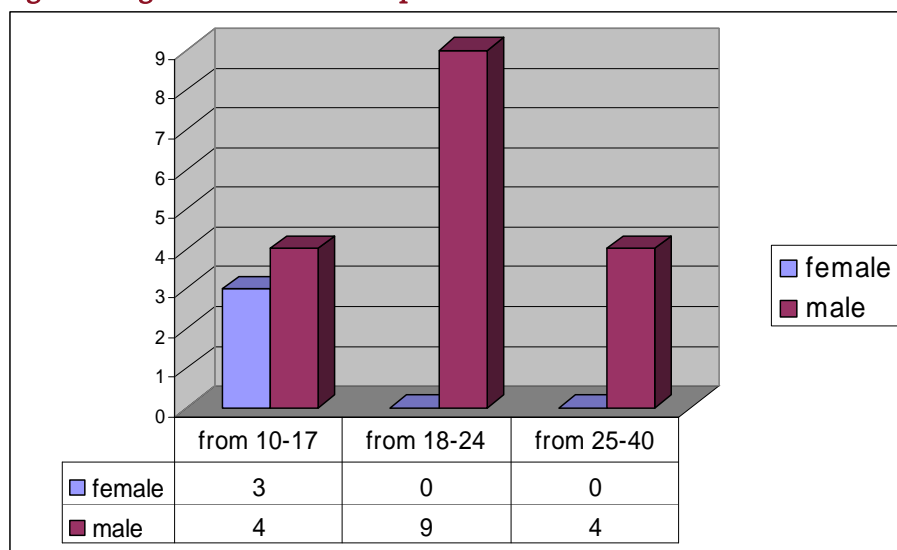
In addition, the non-personal data on 115 VoTs assisted by IOM under its direct assistance programme over the last two years was also used (hereafter referred to as IOM-assisted VoTs); when it comes to referral mechanisms, it must be noted that most of the IOM caseload are victims

referred by the Government of Afghanistan during their vigorous efforts to crack down on a growing number of establishments used as brothels over the last few years and that they were predominantly Chinese women trafficked for sexual exploitation. Due to the considerable difference in the nature of sample populations, it could be misleading to mix those data sets in some cases; therefore, the IOM cases were mostly analysed separately for reference purposes.

### *Age and gender*

The trafficked victims interviewed during the survey (n= 20) were predominantly young adults (9 persons or 45%) between 18 and 24 years of age, followed by minor victims (7 persons or 35 %) under the age of 18, while four of the respondents were in the age group of 25 years or above. The field survey team was able to find and get cooperation for an interview from only three female victims (15%), all minors, and the rest of the respondents were male.

**Figure 3: Age and Gender of Respondent VoTs**



(n= 20)

The breakdown among the IOM-assisted VoTs presents a completely different picture with 93 victims (81%) 25 years of age or above, six victims (5%) between 18 and 24 years and 16 victims (14%) below 18, while the great majority (108 persons or 94%) were female.

### *Places of origin*

All respondent VoTs were Afghan nationals originated from Herat (10), Faryab (7), Kabul (2) and Nangarhar (1) provinces. Consequently most of the respondents were ethnic Tajiks and Uzbeks.

Most of the IOM-assisted VoTs concern non-Afghan nationals, mostly Chinese (91 persons or 79%), Iranians (7 persons or 6%) and Pakistanis (4 persons or 3%) while there were 13 Afghan victims (12%) from 10 different locations: namely Kabul, Kapisa, Kunduz, Ghazni, Kunar, Nangarhar, Lagman, Panjsher and Wardak provinces as well as Peshawar, Pakistan.

Based on these data, it is unlikely that, despite the high concentration of survey respondents in Herat and Faryab provinces, certain provinces of Afghanistan or ethnicities are more vulnerable to trafficking than others. Many victims were interviewed in the two provinces probably because it was easier to identify them in these areas due to relative security and better awareness of trafficking issues among community informants. Further research is required to determine whether certain provinces can be considered more prone to human trafficking.

With regards to 91 Chinese victims out of the 115 IOM-assisted VoTs, all of them were women and they were mostly trafficked from the east coast, including Shanghai, Liaoning, Fujian, Heilongjiang and Jilin provinces.

### *Educational background*

Only two (10%) of the respondent VoTs have completed their primary school education up to 6<sup>th</sup> grade and the rest are totally or nearly illiterate<sup>35</sup>. In comparison, the national net primary school enrolment rate is estimated at 53 per cent and that 11 million Afghans, or 35 per cent of the population, are considered illiterate<sup>36</sup>. Although the accurate information on the age of children in each grade necessary to compute the net enrolment rates is still not available, the gross enrolment rates for higher education, including the number of over-age students who missed schooling previously, are 33 per cent (46% male and 17% female) for secondary school and 4% (6% male and 2% female) for high school<sup>37</sup>. It can be concluded that trafficked victims have a particularly low level of education and that less educated persons are more vulnerable to human trafficking. In short it can be said that the traffickers have a huge potential market in Afghanistan.

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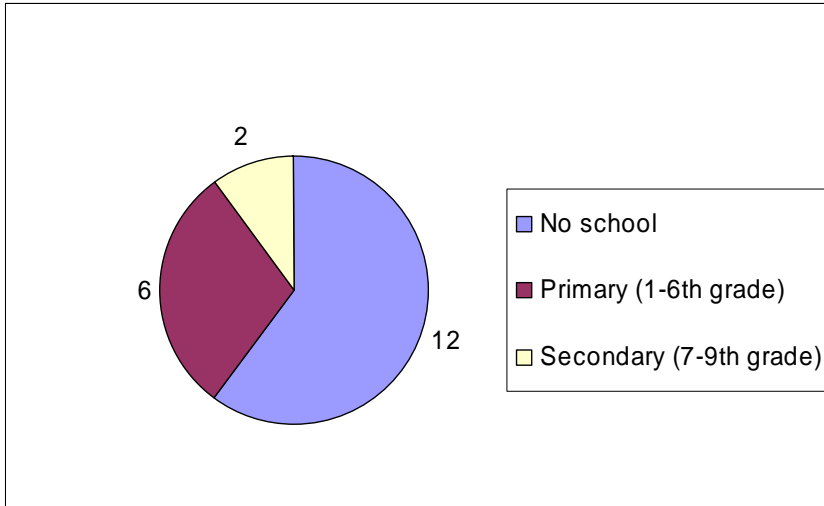
<sup>35</sup> The Afghan education system consists of six years of primary school, three years of secondary school and three years of high school, followed by university.

<sup>36</sup> Afghan Ministry of Education, The National Education Strategic Plan, 2007

<sup>37</sup> *ibid*



**Figure 4: Education Level of Respondent VoT**

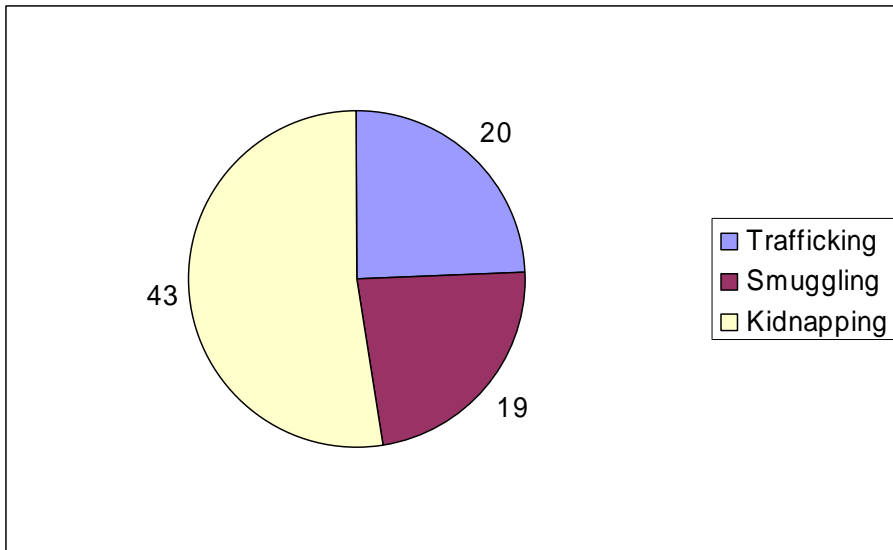


(n= 20)

### 3.3 Smuggled Migrants and Victims of Kidnapping

During the course of fieldwork, a considerable number of cases referred to the research team as trafficking cases turned out to be cases of human smuggling and kidnapping as a result of the lack of understanding among community informants and their inability to distinguish the three concepts, despite the surveyor's efforts to provide definitions. In order to obtain a better understanding of human trafficking, the research also analysed 19 and 43 cases of smuggling and kidnapping respectively for comparison purposes.

**Figure 5: Identified Cases During IOM Field Survey**



(n= 82)

The cases of kidnapping other than trafficking were mostly for ransom, while the smuggling cases predominantly occurred for economic reasons. The employment opportunities in Afghanistan are scarce and largely inadequate, thus forcing a lot of people to risk their lives in search of work elsewhere. Out of the 19 cases of smuggling, 15 respondents said that they looked for people who could take them to neighbouring countries and give them work so that they would be able to earn their living. The remaining four cases were those aspiring to immigrate to Europe. They were given the promise that they would be taken through Iran, Turkey and then Greece, from where they could travel to any part of Europe for illegal work or, if caught, seek asylum. All respondents, regardless of which part of Afghanistan they are from, were linked up with Baluchi communities, an ethnic group inhabiting on both sides of the Afghan - Iranian border, and then smuggled through Iran. Those heading towards Europe were then handed to Kurds, an ethnic group living on both sides of Iranian – Turkish border.

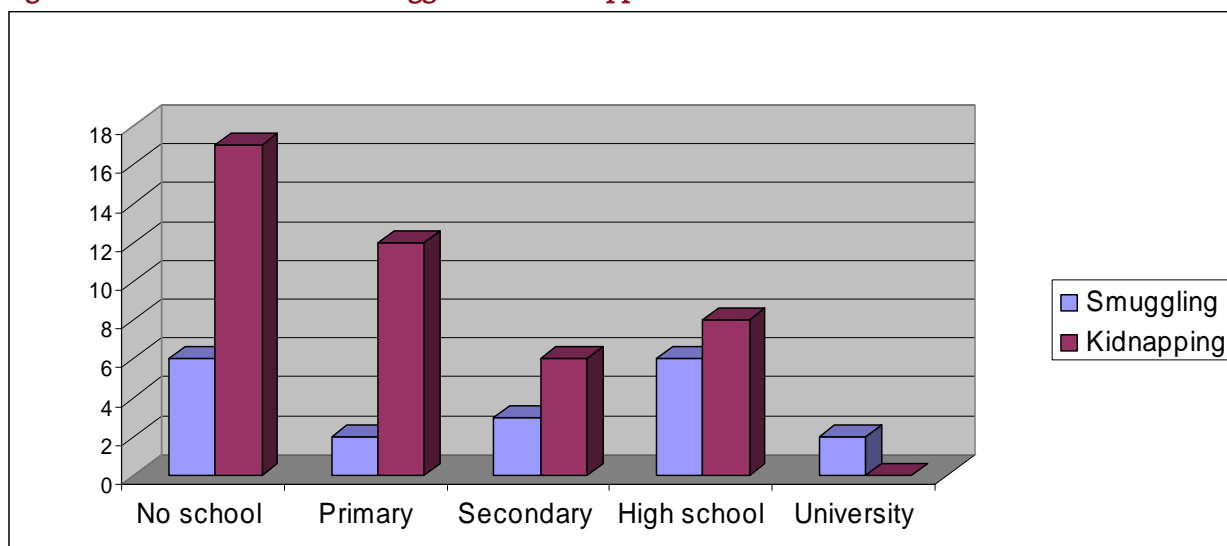
*“We were bound for Turkey and then for some European country where we could easily find work. We travelled to Herat and crossed the border to Iran. We found an agent who was going to help us cross the Turkish border and he kept us in an awful hotel. When we reached a Kurdish area by car, we were handed over to another agent, who kept us in a basement, where four persons were already present. For 10 days we didn’t see the sun. On the eleventh night we were taken out and collected by a car, which took us to a house where we spent another four days. We were dropped at a place, where it was snowing, and were told that we had to continue our travel on foot to cross the border. It was 4 pm when we started walking in the snow and crossed a pond. The surface of the water was frozen and when we put our feet on the ice, it broke down and we fell in the water up to the waist level. We kept walking in the extremely cold weather until 10 am in the next morning and I had lost feelings in my feet by then. My shoes were totally frozen as well. A car then picked us up and we were told that now we were going to Istanbul. Along the way, we were dropped near a bridge and were told to wait for another agent who would take us to Istanbul. Suddenly we saw a car which turned out to be a police car, and we were deported back to Afghanistan. I went to get some treatment for my feet, but doctors told me that I lost three of my toes due to frostbite. (Field survey in Nangarhar, 2007)”*

### *Age and gender*

All smuggled persons interviewed during the survey were male, two were minors. In a stark contrast, women and children made up three quarters of kidnapped victims: 16 men, 2 women, 20 boys and 5 girls.

## Educational background

Figure 6: Education Level of Smuggled and Kidnapped Persons



(n= 62)

Among the smuggled migrants interviewed during the survey, two were university graduates, while six completed high school. Three had completed secondary school and only eight persons or 42 per cent had an education level below 6<sup>th</sup> grade, as opposed to 90 per cent among respondent VoTs. Among the kidnapping cases, 29 persons or 67 per cent of victims were educated below 6<sup>th</sup> grade. Consequently it can be inferred that those who use the “service” of smugglers are slightly better educated than average Afghans and the education level of those who fall prey to traffickers is particularly poor, while kidnapped persons more or less fit the average educational profile in Afghanistan.

## Economic status

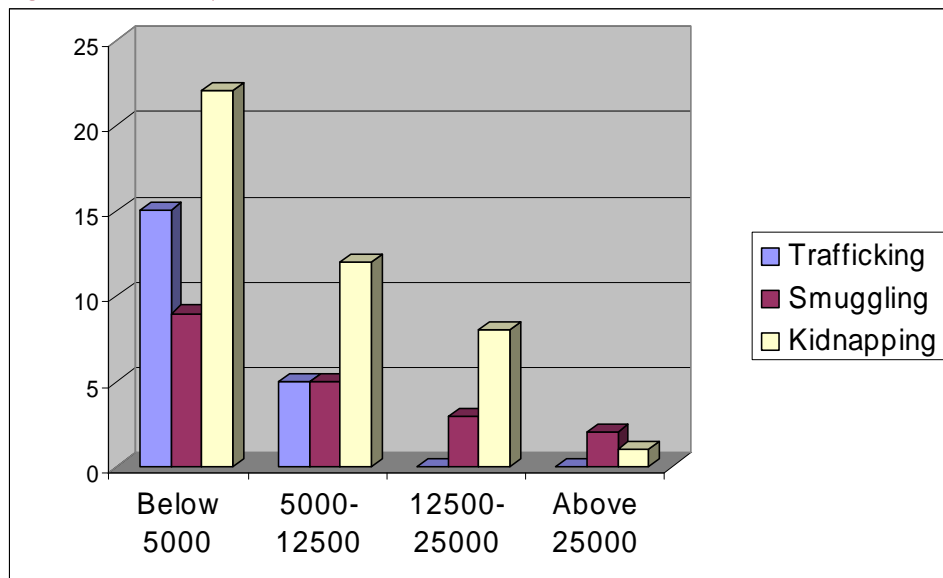
Differences in the economic status between VoTs and the others are prominent<sup>38</sup>. Monthly household income of VoTs was mostly (15 persons or 75%) below 5000 Afghani (USD100), while the remaining 5 persons (25%) were earning below 12,500 Afghani (USD 250) per month.

By contrast, among the victims of kidnapping, 22 persons (51%) were earning less than 5,000 Afghani per month and 12 persons (28%) were in the income group of between 5,000 and 12,500 Afghani per month. Eight persons (19%) were earning between 12,500 and 25,000 Afghani and one person (2%) above 25,000 Afghani per month. Nine (47%) out of 19 smuggled persons had a monthly family income of below 5,000 Afghani and five (26%) had between 5,000 and 12,500

<sup>38</sup> As explained in Chapter 2.4, the accurate estimate of GDP per capita is not available in Afghanistan and therefore it is not useful to compare the interviewees’ economic status this with the national average.

Afghanis, while three persons (16%) earned between 12,500 and 25,000 Afghanis and two (11%) earned more than 25,000 Afghanis per month.

**Figure 7: Monthly Household Income**



(n= 82)

Compared to the household income levels of respondent VoTs or Afghanistan’s national average<sup>39</sup>, it was found that the smuggled migrants and families of kidnapped victims were financially much better off. In cases of kidnapping, this is self-explanatory as kidnapers tend to look for families that can afford a big ransom. On the other hand, the survey revealed that the migrants bound for Iran paid the smugglers between USD 400 and 600 for their services, while those headed towards Europe paid exorbitant amounts ranging from USD 4,000 to 8,000 for their complete trip through Iran, Turkey and Greece.

### *Linkage with human trafficking*

It seems that smuggled migrants are in better control of their lives than VoTs in terms of educational background and economic status. It is predominantly economically active male adults going for a smuggling option in search of better employment opportunities. Indeed, it is generally said that smuggled migrants simply pay for transportation services to illegally cross borders of their own free will and therefore are not “victims.” Smuggling, however, often takes place under extremely harsh conditions, and migrants were often never informed in advance. The migrants are also vulnerable once the smuggling process has started. Many migrants experience hardships or even physical violence; yet they are in no position to negotiate for better treatment. In this regard,

<sup>39</sup> GDP per capita is explained in Chapter 2.3.

smuggled migrants are also vulnerable and can end up being exploited, thus falling victim to trafficking during the process.

*I had a few relatives in Iran and all of them crossed the border illegally. I decided to follow them as there was no work for me in Afghanistan. I found a smuggler and he took me to Iran, after crossing the border. I was then handed to another man and was forced to work for him. I was never paid and not allowed to go out of the work area. After some time I found a chance to run away and reached Meshed to search for my relatives. However, I was caught by the police and deported back to Afghanistan. (Field survey in Herat, 2007)*

Exploitation can also happen during the course of captivity, with kidnapping cases turning into the cases of human trafficking, whether intended or unintended from the beginning.

*A boy was kidnapped for ransom. However, his father was so poor that he couldn't pay the ransom. As a result, the boy was kept captive for a few months, and he was forced to work as a domestic servant without any financial reward. Meanwhile, he was also abused sexually by the kidnapers on a regular basis. Finally his father managed to recover the boy with the help of elders of the area. (Field survey in Khost, 2007)*

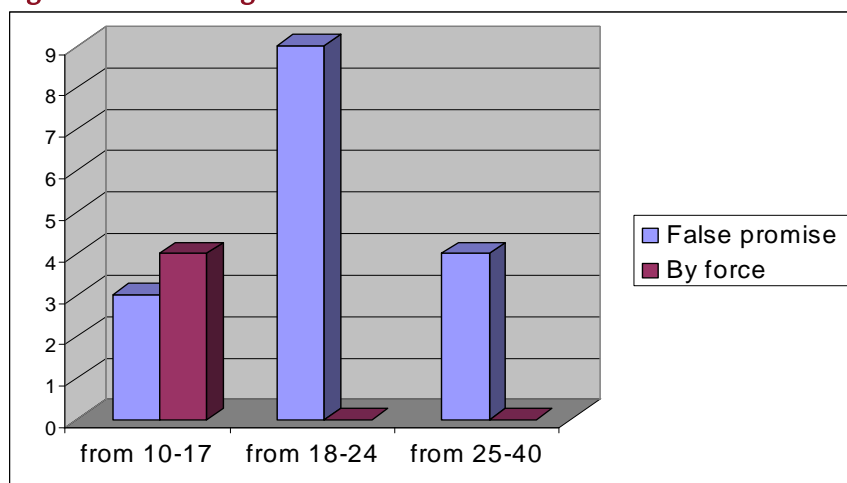
For these reasons, the three different phenomena, human trafficking, smuggling and kidnapping, are distinct in nature and yet closely inter-linked in the Afghan context. It would therefore be more effective to tackle all three issues from the programming perspective, instead of isolating one issue from the others.

### **3.4 Trafficking Methods**

People fall victim to trafficking through various means such as coercion, deceit and abuse of power as defined in the Trafficking Protocol. In this study, between the two options, 16 respondent VoTs (80%) answered that they followed the traffickers based on false promises and the remaining four (20%) said that they were taken by force.

Focusing on different age groups, one can notice that younger victims are more vulnerable to forcible trafficking. Among the seven child respondent VoTs, four (57%) were taken by force while all the 13 adult victims were deceived by false promises. This trend seems logical as it is often difficult for children to understand promises of better opportunities or to make decisions on their own lives, while it is physically less demanding to snatch children than adults.

Figure 8: Trafficking Method



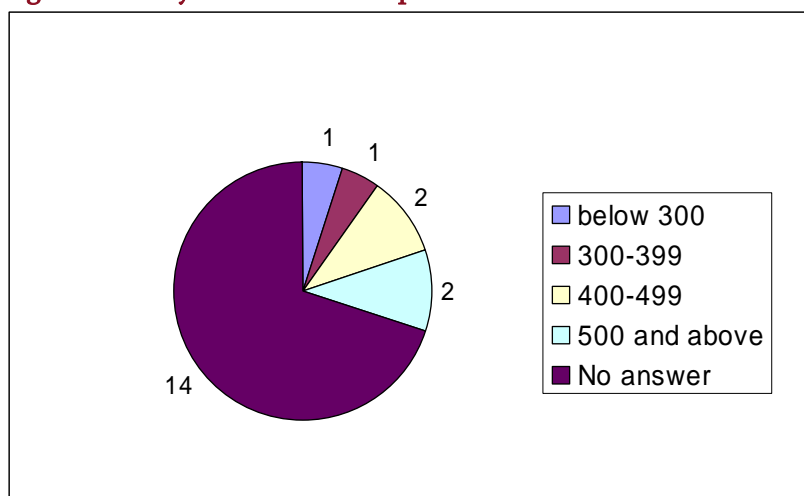
(n= 20)

Among IOM-assisted VoTs, Chinese victims are distinct in so far as almost all (90 out of 91 victims) were taken by false promises while among the rest, 11 persons (46%) were taken by false promises and 13 persons (54%) by force. The characteristics of Chinese victims can be explained by the fact that they are mostly (89 out of 91 persons) in the age group of 25 years or above. Secondly, while all non-Chinese victims were trafficked by land, nearly all the Chinese victims (88 out of 91 persons) came to Afghanistan by air, and this cannot be easily achieved without the victim's cooperation. The remaining three victims crossed the land border at Torkham from Pakistan.

Amongst victims entrapped through false promises, all were lured by the promise of well-paid jobs. All Afghan male respondent VoTs were promised higher wages, ranging from USD 250 to 500, for construction work or other low-skilled labour. The average monthly salary promised among six persons who answered this question was USD 392.

*I was convinced by a man that I would be able to make good money in Iran because there were a lot of job opportunities there. We crossed the border in the Western region illegally and I was kept in a room like a slave for a few days until my work finally started. I worked on a construction site for seven months but received no salary. I was later sold to another man, who forced me to work in an orchard for another nine months without any pay. I tried to run away and was captured by the Iranian Police, who later deported me to Afghanistan. (Field survey in Faryab, 2007)*

Figure 9: Salary Promised to Respondent VoTs



(n= 20)

The field survey team did not come across any cases of Afghan women taken by false promises; instead, all three female victims were kidnapped for sexual exploitation. On the other hand, there are also cases of women trafficked after having been duped into the promises of a good marriage opportunity, recorded in the IOM database.

*Rahima is a 30- year-old widow with a three-year-old son and is originally from the Central region. After her husband's death, she was living with her parents in Pakistan. One day a friend told her that she knew a successful businessman with a lot of money and a big house in Kabul and that he was looking for a good woman like Rahima to marry. Her friend introduced the man, Ahmad, to Rahima in a restaurant in Pakistan. Ahmad told her that they would live happily and that he would take good care of her son, enrol him in the best school in Kabul, and let him handle his business in the future. She agreed with him and left for Kabul with him after three days, without telling her parents. One day a person came to Ahmad's house and Ahmad asked Rahima to accompany him to his house. She refused but Ahmad threatened her that he would kill her and that nobody would ever find it out. Ahmad's friend sexually assaulted her and told her that he had spent a lot of money on her and that she would have to pay him back by working as a prostitute. After 20 days, she found an opportunity to escape and reached a police station. She went back to Pakistan with IOM's assistance. (IOM case record, 2008)*

In the case of Chinese victims trafficked to Afghanistan, most of them originally intended to work as waitresses or salespersons in Dubai, but were forced into prostitution in Kabul.

*Faye is from China. Back home, a friend suggested that she should go to Kabul for work to earn money. She could not afford to apply for a passport and other documents, so her friend introduced her to a trafficker, who made all the travel arrangements on her behalf. Faye*

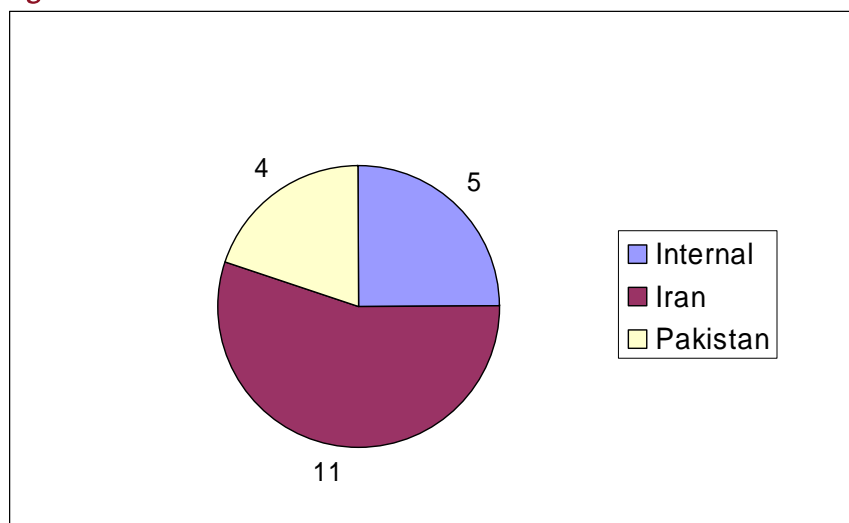
*was told that she would have to pay back USD 1500 once in Afghanistan. She started working in a restaurant as a waitress for USD 200 per month. Two months later, the owner asked her to pay an additional USD 800 for a visa extension. He said that she must sleep with the customers, otherwise he would call the police to have her arrested. All her documents were with the owner and she had no choice but to accept his demand. The restaurant was raided by the Afghan Police a few weeks later and Faye was voluntarily repatriated with IOM's assistance. (IOM case record)*

All the respondent VoTs trafficked on the basis of false promises said that they came into contact with the racketeers through a friend or relative, instead of newspaper, TV or Internet advertisements. The networks of traffickers are thus deep-rooted in the rural areas and most victims are lured with promises of riches and a better life by local informants. Further research is needed into how and where these criminal networks operate and the extent to which these local recruiters are involved in the final state of exploitation.

### 3.5 Reaching Destinations

Most of the cases identified during the field survey (15 cases or 75%) were cross-border trafficking. A total of 11 victims were trafficked to Iran, while four were trafficked to Pakistan. All IOM-assisted cases concerning Chinese, Pakistani and Iranian victims (102 out of 115 cases) were trafficked to Afghanistan, and therefore cases of cross-border trafficking. Among the IOM caseload concerning Afghan victims, only one out of 13 victims was trafficked abroad to Iran.

**Figure 10: Destinations**



(n= 20)

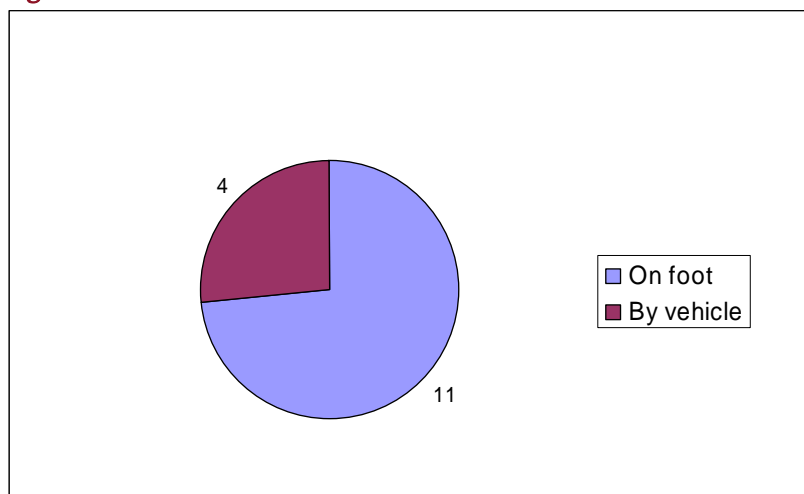
IOM has also assisted persons who were intercepted on the way to a third country. They are not confirmed cases of trafficking as the exploitation had not happened yet, but it is suspected that



they would have ended up being trafficked if they had continued with their journey. These incidents suggest the possibility that Afghanistan is also being used as a transit country by traffickers.

*Emma, a 30-year-old Tajik woman, flew to Kabul for her onward travel to India in the winter of 2007. She met an Indian man on the Internet and after several months of correspondence, he had finally offered her a marriage proposal. He told her that he could not come to Tajikistan because the weather was too cold. Emma stayed with her Tajik acquaintance, Sofia, in Kabul for a few days, waiting for her next flight. Sofia became suspicious about the sincerity of the Indian man and persuaded Emma to be more cautious. Emma agreed and requested the man to fetch her from Kabul or meet her in Dushanbe to register their marriage first. He told her that it would be too expensive as he had already spent a lot of money for her domestic air ticket. He insisted that she should fly to Delhi alone so that his friend could pick her up from the airport and bring her to another province. Emma was shocked as the man had initially promised her that he would meet her at the airport himself. Having lost her confidence, Emma decided to go back to Tajikistan with IOM's assistance. (IOM case record, 2007)*

**Figure 11: How Did You Cross the Border?**



**(n= 16 respondent victims of cross-border trafficking)**

All victims of cross-border trafficking interviewed during the survey used unofficial land border crossing points without any valid travel documents, though they could not specify the names of the areas where they crossed the border. When crossing the border, 11 out of 15 persons (73%) walked while the remaining four used vehicles. Most of those trafficked to Iran said that Baluchi tribes living on both sides of the Afghan-Iranian border were involved in the transportation process. The data is indicative of weak border management as well as established human trafficking networks, particularly along the Afghan borders with Iran and Pakistan.

*Getting an Afghan passport is a cumbersome process, and employment opportunities are scarce in Afghanistan. Consequently, I decided to go to Iran illegally for work. The trafficker offered me help for some USD 400, which I promised to pay back once in Iran. Three other persons accompanied me when crossing the border from a Western province without any travel documents. We were then sold to another person who extorted money and physically assaulted us. He kept on asking us to call our families for ransom and forced us to work for a fleet company, loading and unloading goods, without any salary. When I got a chance, I ran away. I was caught by the police and deported back to Afghanistan. (Field survey in Herat, 2007)*

Afghanistan, a land-locked and mountainous country, shares some 5,530km of border with its six neighbours. The length of Afghanistan's borders are: China, 76 kilometres; Iran, 936 kilometres; Pakistan, 2,430 kilometres; Tajikistan, 1,206 kilometres; Turkmenistan, 744 kilometres; and Uzbekistan, 137 kilometres. The largest border with Pakistan has only three official border crossings at Torkham, Ghulam Khan and Spin Boldak, while the Iranian side up from Dashte Towbeh, where Afghanistan, Pakistan and Iran share a border, has just two crossings at Milak and Islam Qala.

IOM has recently held a number of counter trafficking seminars for various stakeholders across the country and the border police officers participating in the training have noted that there are over 200 unofficial border crossing points along the porous borders with Pakistan and Iran, which are often used for drug smuggling, people smuggling, trafficking in persons and other illicit cross-border activities in the absence of modern border management.

### **3.6 Types of Exploitation**

Out of the total 20 respondent VoT cases, the highest was the cases of forced labour (16 persons or 80%), followed by sexual exploitation (4 persons or 20%). There was no confirmed case of trafficking for the purpose of organ removal.

Among the IOM-assisted VoTs, nearly all Chinese victims (90 out of 91) were trafficked for the purpose of sexual exploitation, while among the rest of the Afghan, Iranian and Pakistani victims, 15 persons (62%) were trafficked for sexual exploitation and nine (38%) were trafficked for forced labour.

Taking a closer look at the 20 cases identified during the survey and the Afghan victims that were referred to IOM for assistance, one notices a significant difference in their profiles; the former mostly consists of male victims predominantly trafficked for forced labour, while nearly half of the latter (6 out of 13 persons, or 46%) consists of women predominantly trafficked for sexual exploitation.

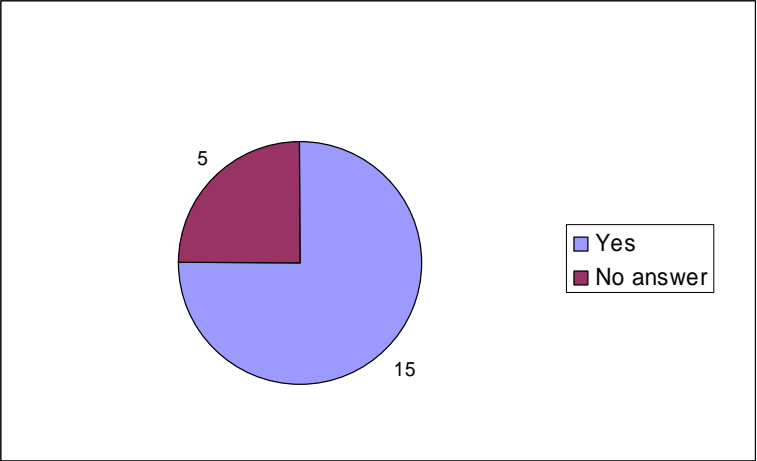
It is also interesting to note that victims trafficked for the purpose of sexual exploitation represent the majority (72 %) of the caseload that IOM missions have assisted worldwide since 1999 and therefore the figures concerning the 20 respondent VoTs can be considered somewhat unique. It would, however, be wrong to conclude that women are not often trafficked or there are less cases of sexual exploitation in Afghanistan, given that a considerable number of women trafficked for the purpose of sexual exploitation have actually been referred to IOM Afghanistan. Instead, this could be explained by the social stigma attached to sexual exploitation, particularly concerning women, and people's unwillingness to open up and discuss the issues with the outsiders. The extreme difficulty encountered by the survey team in identifying female trafficking cases has somehow confirmed the tendency of Afghan families to keep sexual abuse incidents undisclosed and unreported. With such constraints, one can conclude that it is impossible to obtain an accurate picture, let alone exact numbers, of trafficking cases in today's Afghanistan.

### *Control elements*

It must be noted that all categories of trafficking cases include coercive elements such as physical abuse (i.e. beating, burning and forcible use of drugs), psychological abuse (i.e. threat of violence and killing), restricted or no freedom of movement (i.e. confinement), partial or no payment of salary and debt bondage occurring in all stages of the trafficking process – during recruitment, transport and at the destination. As a result of these elements, the victims are “enslaved” without any control of their own fate until they have a chance to run away or be rescued by the authorities.

None of the victims interviewed during the survey paid any amount of money to the traffickers in advance, but instead were indebted during the process and unable to keep any of their earnings while working.

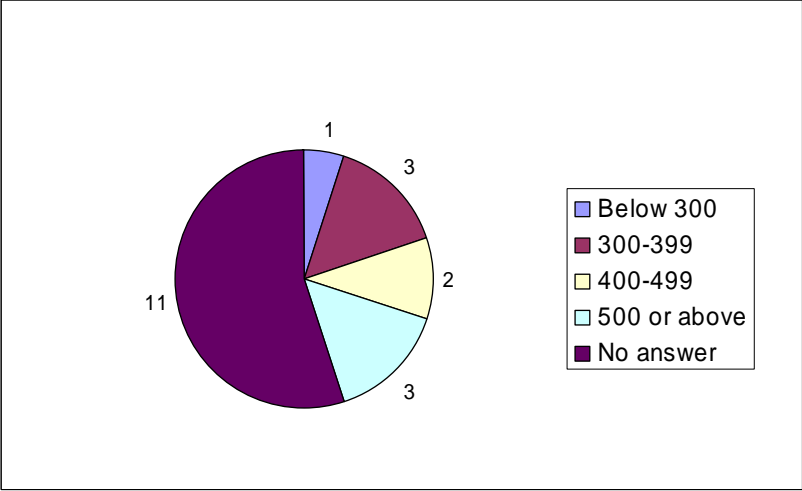
Figure 12: Were You in Debt?



(n= 20)

Among the nine persons who were able to recall the exact amount of their debts, the average amount was USD 389.

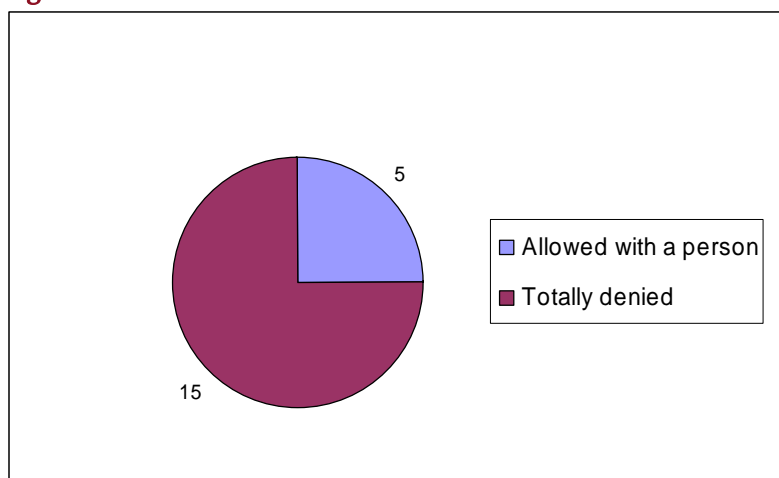
Figure 13: Debts Incurred During Trafficking Process



(n= 20)

All 20 respondents said that they had limited or no freedom of movement at the destination and 15 of them were denied of any form of movement.

Figure 14: Freedom of Movement



(n= 20)

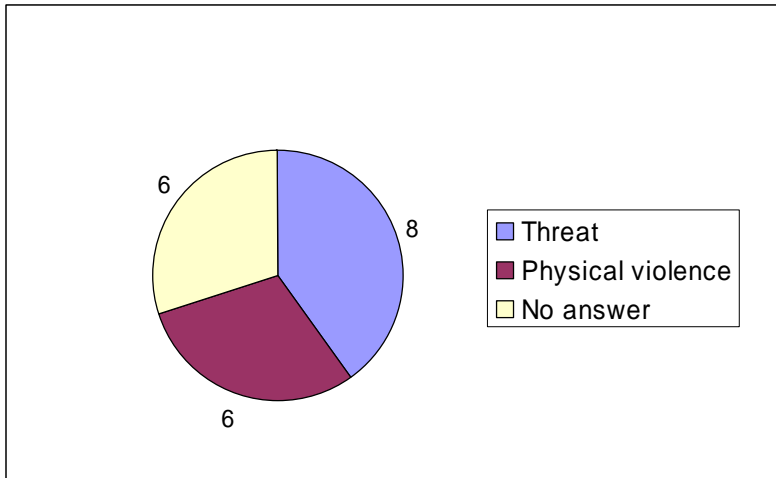
*Aisha, a 15-year-old girl, was living with her family in a refugee camp in Pakistan. One day she went shopping to a nearby store and found two persons waiting for her return on her way home. They forcibly took her in their car, beat her until she lost consciousness and drove away. When she woke up, she was in a house with the traffickers and had no idea how many hours they had travelled. They continued to beat and rape her for the next four days. She had no chance of escape and was then transported to a city in the Southeast region through a land crossing border. In the city, she was again detained in a house and subjected to physical and sexual assaults for 15 days. One day the traffickers forgot to lock the house when they went out to buy some food and Aisha took the opportunity to run away. She was handed over to MoWA by the local police and safely returned to Pakistan and her family. (IOM case record, 2008)*

With regard to the question whether they experienced any violence at the destination, 14 victims were able to respond; eight persons said they were subjected to threats, while six were subjected to physical violence.

Violence is widespread and some trafficked victims end up being murdered.

*An eight year old Afghan girl was kidnapped in the Southern region in August 2006. She was later found dead in a house in the same province. The autopsy revealed that she was first sexually abused and then burnt to death. (Field survey in Kandahar, 2007)*

Figure 15: Violence Experienced by Respondent VoTs



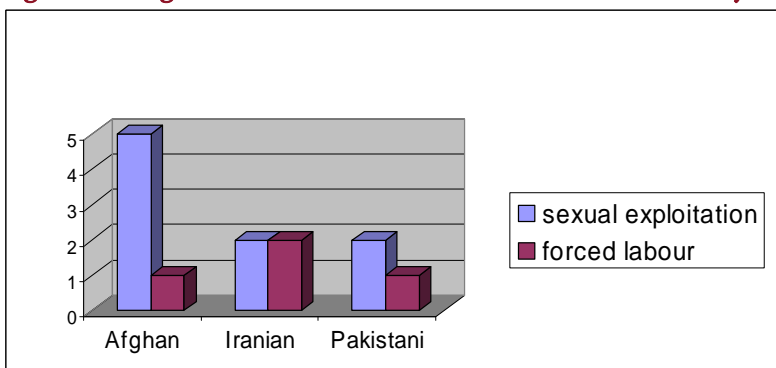
(n= 20)

### *Sexual exploitation*

The cases of sexual exploitation collected during the survey cover three different patterns of violation: 1) forced prostitution where the victim is forced into prostitution and the perpetrator makes profit out of the act, 2) sexual servitude and assault where the victim is physically molested or raped by the traffickers, and 3) forced marriage, including child marriage.

All three Afghan female respondent VoTs were trafficked for the purpose of sexual exploitation. The IOM caseload also confirms that women are particularly vulnerable to sexual exploitation. All Chinese victims were women and nearly all except one person were sexually exploited in Afghanistan, most of which cases involved forced prostitution. Among the remaining Afghan, Iranian and Pakistani victims, nine out of 13 female victims were subjected to sexual exploitation.

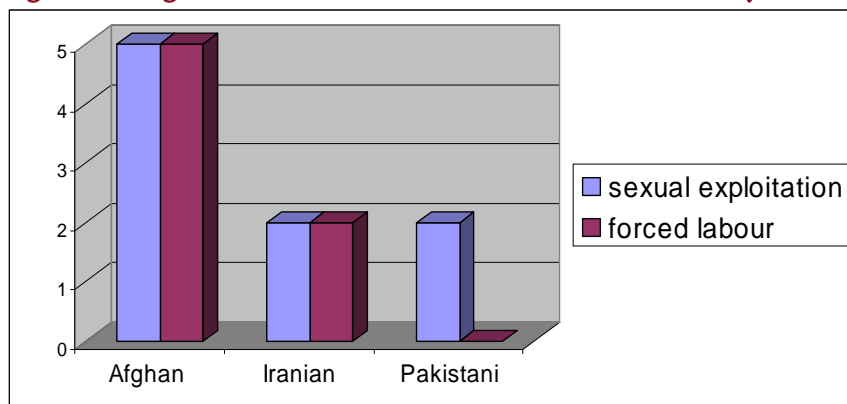
Figure 16: Afghan, Iranian and Pakistani Women Assisted by IOM



(n= 13)

IOM data shows that children, including boys, are also vulnerable to sexual exploitation. Out of the 16 child trafficking cases (11 boys and 5 girls) of Afghan, Iranian and Pakistani nationals assisted by IOM, nine cases (5 boys and 4 girls) were trafficked for the purpose of sexual exploitation.

**Figure 17: Afghan, Iranian and Pakistani Children Assisted by IOM**



(n= 16)

*At the age of 12, Tamina was sold to a trafficker on a false promise for a marriage. The woman sedated her by giving her a drink, which seemed like water. When the girl recovered, she found herself in Pakistan, where she was kept in the basement and used as a prostitute for four years. She didn't have any income from the work and had no freedom of movement. In 2006, she was then transferred to Kabul for the same purpose. One day there was a police raid in the establishment where she was working and she was put in the prison. (IOM case record, 2006)*

It is an alarming fact that VoTs such as Tamina are often treated just as prostitutes and punished for their “crime” based on Chapter VIII of the Afghan Penal Code<sup>40</sup> concerning the act of *zena*, or fornication. Most of the IOM-assisted Chinese VoTs were criminalized for the same reason and remained imprisoned until repatriation. This problem, known as double victimization, can be detrimental to the mental well-being of trafficked victims, who are often traumatized. It must be taken into account for their recovery and the prosecution of traffickers.

There are also numerous examples of sexual servitude and rape within the context of trafficking.

*Marzia came to visit her aunt's house in Kabul. She was kidnapped from the house by a security guard working at a neighbour's house in the same street where Marzia's aunt's house was situated. He told her that he would marry her but she refused. Then the guard threatened her that if she screamed, he would kill her. Marzia was transported northward*

<sup>40</sup> Penal Code Issue No. 13, Serial No. 347, enacted on 15 Mizan 1355 (7 October 1976)

*by car and she lived there for two months with him. She didn't have freedom of movement; she was sexually abused and was given medicine to prevent pregnancy. One day Marzia was travelling to Kabul with the trafficker and was stopped by the police. During investigation, she revealed the truth and was put into protective custody. Now the kidnapper is in jail while she was placed in the MoWA shelter and referred to IOM for assistance. (IOM case record)*

A significant number of women in Afghanistan, including one of the female respondent VoTs, are forced into marriage.

*Fatemah is 18 years old and originally from the Northern region. She was kidnapped by a person named Farid and then transported to a neighbouring province by taxi. She was physically abused and threatened on the way. She spent the next few days in a house where there was nobody else and was raped by the trafficker many times. Farid then sold Fatemah to Masood, a rich man living in the same province, for 200,000 afghanis (approximately USD 4,000). Masood conducted a nikah (marriage ceremony) and told her that she was now his wife. She was sexually assaulted on a regular basis while working as a domestic servant. After 20 days, she found an opportunity to escape and ran to a nearby police station. Police arrested both Farid and Mosood and put them in prison. Fatemah is currently receiving assistance from IOM. (IOM case record, 2008)*

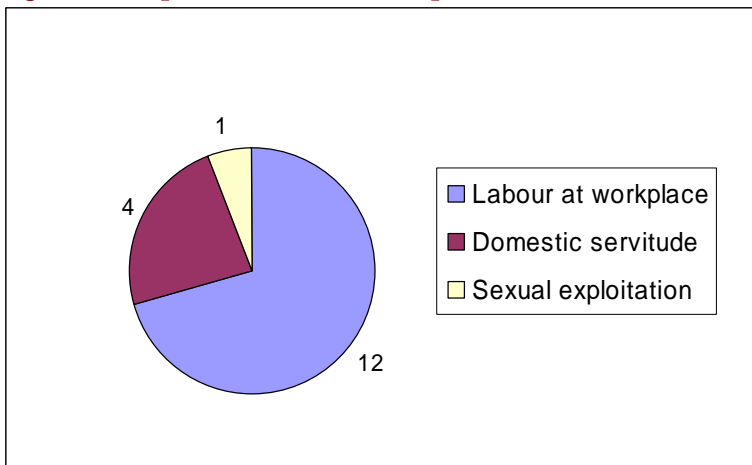
*Rona got married to a blind man at the age of 10. Her in-laws treated her well, however, when they passed away, her husband, who was unable to work, let a local commander abuse her sexually in exchange for money. Later Rona was sold to a man and taken to Pakistan, by force. She was raped on the way and became mentally sick. Rona was rescued by a Pakistani Senator and IOM searched for her family for reunification. (IOM case record, 2007)*

### *Forced labour*

People are often trafficked for labour exploitation in the form of forced labour in factories and construction sites, and domestic servitude. Among the 17 male respondent VoTs, all except one were trafficked for forced labour. 12 persons worked outside and the remaining four were forced into domestic servitude. Domestic servitude often renders boys vulnerable to occasional or regular sexual assaults.



**Figure 18: Exploitation of Male Respondent VoTs**

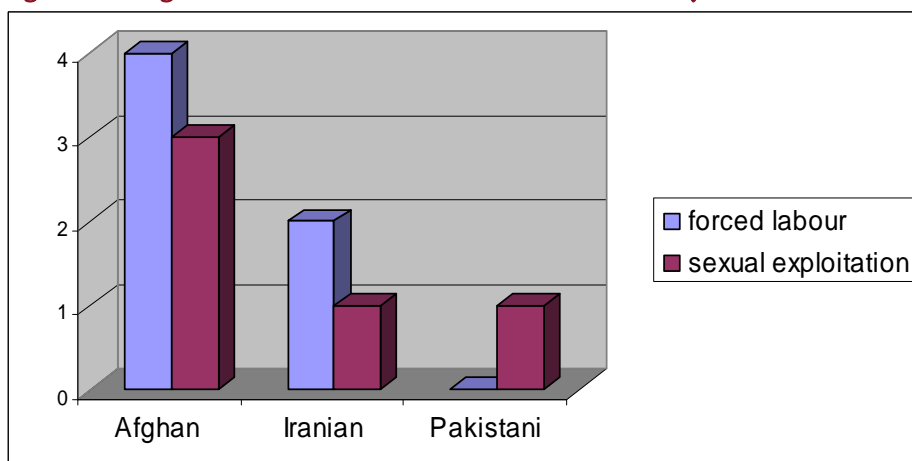


(n= 17)

*Sadiq was kidnapped from the Southern province to Pakistan when he was five years old. He was kept there for many years and forced to serve in the kidnapper's house, doing various household chores. He was not allowed to move freely and was beaten when he tried to go out. He was told that he had been purchased from his father. Sadiq eventually found an opportunity to escape and reached the Southern region at the age of 15, seeking help from the AIHRC. His pictures and story were broadcast on the radio and TV. He finally found his parents and is now living with them. (Field survey in Kandahar, 2007)*

IOM data also confirms the vulnerability of male victims *vis-à-vis* forced labour; six out of 11 male IOM-assisted VoTs were trafficked for forced labour. In many of these cases, the type of work that the victims, both minors and adults, were forced to perform involved criminal activities.

**Figure 19: Afghan, Iranian and Pakistani Men Assisted by IOM**



(n= 11)

*Rafi was born in Iran. He was raised by his father in Afghanistan and never met his mother. One day two young men from his village were talking about a trip to Iran and since Rafi believed that his mother was still in Iran, he asked them to take him along. They travelled to Iran by car, crossing the border illegally in a Western province. He was then sold to another man and forced to work in a restaurant during the day and show Afghans the way to Tehran as part of the smuggling band at night. After four years of unpaid work, he managed to cross the border to Afghanistan and was caught by Afghan police. (IOM case record, 2007)*

Children are not only sexually abused or exploited for cheap labour, but also used for criminal activities such as smuggling of small arms and drugs. This is particularly so across the border to Pakistan's North West Frontier Province. People move over the hills, or work in the transport business. With the increase in poppy cultivation more youth are being drawn to this lucrative business, which ensures quick payment in cash. Some end up being trafficked<sup>41</sup>.

*A group of drug smugglers were detained by the Afghan Police and a fourteen-year-old girl was among them. She is an Afghan born in Iran. One day she was kidnapped from her village in Iran and threatened that she would be killed if she failed to obey them. This is how she was forced into drug smuggling. The drugs were smuggled from Kabul to Tehran and she was regularly beaten by other smugglers. She is currently under the MoWA custody and receiving assistance from IOM. (IOM case record, 2007)*

### *Removal of organs*

There has been no confirmed case of trafficking for the purpose of organ removal; however, there are numerous stories suggesting the likely prevalence of such cases in Afghanistan and neighbouring countries.

*Yunus, 10, was kidnapped together with two other boys on their way home from school in Kabul. His parents looked for him but found no trace of him. His father finally received a call from Yunus three months later. According to Yunus, he was calling from Pakistan. Two other boys had already been killed and their organs had been taken out. He had escaped and run into a shop, asking for help. The father came to IOM through a local parliamentarian's referral and requested assistance in returning his son. Recognizing the urgency, IOM provided financial support to cover his travel expenses to Pakistan. By the time the father got there, the boy had already disappeared and nobody knew his whereabouts. The boy has not been found. (IOM case record, 2007)*

During a training of trainers that IOM conducted in April 2007, a participating schoolteacher reported that the police had recently interdicted a group of people carrying a corpse of a child.

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<sup>41</sup> National Plan to Combat Child Trafficking in Afghanistan, 2004

They claimed that they were transferring the body for a funeral, but it looked suspicious as the stomach was stitched up by hand. According to the teacher, the police finally decided to examine the body and found narcotics inside. Although the story is only anecdotal, it suggests people's bodies may be used for various atrocious purposes other than organ transplantation in Afghanistan.

### 3.7 Summary of Findings

People in general get information related to human trafficking from TV and radio. However, the three concepts of human trafficking, smuggling and kidnapping are widely confused.

The victims the survey team was able to identify in the field were mostly male adults, some children and no female adults, trafficked for the purpose of forced labour. The victims referred to IOM for assistance were predominantly female adults, trafficked for the purpose of sexual exploitation. Women and their families currently face great obstacles in reporting their cases due to social stigma. Female victims, trafficked for the purpose of forced prostitution, are even criminalized and imprisoned under the current Afghan law.

All survey respondents were Afghans and their educational level was significantly lower than the national average, suggesting that less educated people are more prone to fall victim to trafficking. In contrast, smuggled migrants, in particular, had higher education and economic status. Smuggled migrants were relatively well off compared to the national average and could afford expensive fees for "transportation." However, many of them were rendered vulnerable once in the hands of smugglers, and were abused during the transportation process or at the destination. There is only a thin line between smuggling, kidnapping and trafficking in the sense that smuggled migrants or persons kidnapped for ransom can also fall victim to trafficking.

The younger the victim is, the more vulnerable s/he is to trafficking by forcible means. Among the survey respondents, all victims of cross-border trafficking and smuggled migrants crossed the unofficial land borders to Iran and Pakistan on foot. Respondent VoTs were either taken by force or lured with false promises by people that they already knew.

Of the IOM-assisted victims, the great majority were non-Afghans from China, Iran and Pakistan. All the Chinese victims were female. Most of them were promised a well-paid job and came to Afghanistan by air.

All victims of trafficking, regardless of their nationality or gender, were subjected to elements of control such as no or limited freedom of movement, debt-bondage, physical and psychological violence. Although both men and women were subjected to sexual exploitation and forced labour, more women were subjected to sexual exploitation, while more men experienced forced labour. Children, either boys or girls, appeared to be vulnerable to both types of exploitation equally. There was no confirmed case of trafficking for the purpose of organ removal.

## Chapter IV: Combating Trafficking

### 4.1 Government Efforts

The U.S. Department of State identified Afghanistan as a country with a significant trafficking problem in its 2002 TIP report<sup>42</sup>. The country was placed in Tier III due to the lack of government initiatives to combat the practice. However, there was an improvement in 2004 and Afghanistan moved upwards to Tier II. The major reason described in the Report was: “Given the extremely limited resources available to the Transitional Islamic State of Afghanistan, the anti-trafficking efforts seen in 2003 are commendable. Over the last year, new information – particularly an exhaustive International Organization for Migration (IOM) report – shed light on Afghanistan's sizeable trafficking problem, justifying the country's debut on this report.” The country has not moved ahead in Tiers since then and the latest TIP report<sup>43</sup> published states: “The law enforcement officers received training in anti-trafficking investigations. The government also works with IOM to implement a public awareness programme to address trafficking of women and girls in the most vulnerable provinces.....Nonetheless, despite a significant problem, the government did not provide sufficient evidence that it adequately punishes acts of trafficking.”

Although the Government of Afghanistan has not formally laid out a comprehensive national counter trafficking strategy in the form of legislation or policy papers, the Afghanistan National Development Plans (ANDS) for 2008 - 2013 prioritize human rights protection of all Afghans through the development, ratification and enforcement of legislation (Sector II), which tacitly but strongly supports the Government's on-going counter trafficking efforts.

In stark contrast to the absence of remarkable government achievements specifically in combating trafficking in persons as observed by the 2004 IOM report, some government agencies have recently taken concrete steps as described below<sup>44</sup>.

#### *Ministry of Labor and Social Affairs, Martyrs and Disabled (MoLSAMD)*

In response to reports of trafficking of children, reports of large numbers of missing children and in keeping with the objectives of the South Asia Regional Strategy, a Presidential Decree was issued in 2003 in Afghanistan. MoLSAMD was directed to lead an inter-ministerial technical committee, known as the Committee to Counter Child Trafficking (CCCT), in order to develop a Plan of Action for the prevention of trafficking and protection and reintegration of child victims. UNICEF was selected as the secretary of the inter-ministerial committee. Its members are the MoLSAMD, Ministry of Interior, Ministry of Foreign Affairs, Ministry of Women's Affairs,

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<sup>42</sup> The background concerning the TIP report is explained in Chapter 1.3.

<sup>43</sup> U.S. Department of State, Trafficking in Persons Report 2008, June 2008

<sup>44</sup> IOM, supra note 4

Ministry of Justice, Ministry of Religious Affairs, Ministry of Refugees and Repatriation, Ministry of Finance, Afghan Independent Human Rights Commission, IOM, UNHCR, UNAMA, Save the Children, United Methodist Committee for Relief, Child Fund Afghanistan, International Rescue Committee and Afghan Aid<sup>45</sup>.

The CCCT developed the Plan of Action to Combat Child Trafficking in Afghanistan in 2004. The document was the first of its kind, recognizing the issues of human trafficking and needs of victims in Afghanistan, and served as a significant step towards introducing a variety of protection, prevention and coordination measures. Lead agencies were assigned for each task designed to assist and develop child victims of trafficking as productive members of society. The Plan of Action also called for the development of an effective and adequate legal framework, in line with relevant international instruments. As recognized in the TIP Report 2007 of the US State Department, the Ministry followed up on the plans by conducting a broad public awareness campaign to educate the public on the dangers of trafficking, among others. It must be noted, however, that the coordination efforts have somehow been discontinued over time and that the Plan of Action itself has limitations in substance as it addresses only child trafficking issues.

### *Ministry of Women's Affairs (MoWA)*

As a policy making body, MoWA's main roles are advocacy, direct assistance, monitoring, coordination, capacity building of ministries and government agencies involved with addressing gender social issues and improving women's lives in all spheres<sup>46</sup>. Advocacy and gender mainstreaming work is conducted through coordination with other ministries and organizations to ensure a gender perspective in national priority areas. With its 34 sub-offices throughout Afghanistan, the ministry ensures that the specific needs of women are reflected in policies, and develops projects to assist vulnerable women and mechanisms to eliminate discriminatory and abusive practices. The mechanisms include the draft Law on the Elimination of Violence against Women and the 10-year National Action Plan for Women of Afghanistan (NAPWA). The NAPWA specifically states: "In periods of conflict and instability, armed groups often use violence against civilians as a tactic for intimidating the local population. While men and boys are also targets, women and girls are more commonly victims of gender-based violence, including rape and sexual slavery (Pillar I)" and sets a plan to provide security to vulnerable women, including trafficked victims.

MoWA also promotes gender awareness among the public. Their information campaign has not specifically focused on trafficking in persons, but touches on some relevant issues such as gender-based violence in the form of forced or underage marriages.

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<sup>45</sup> National Plan to Combat Child Trafficking in Afghanistan

<sup>46</sup> Hassan Banu Ghazanfar, Performance Report of MoWA 2005-2006, 2007

In respect to direct assistance, MoWA provides legal counselling and represents women who have been subjected to violence, including human trafficking. If they have no place to stay, MoWA refers them to centres run by NGOs, Humanitarian Assistance for Women and Children of Afghanistan and the Women for Afghan Women, to provide temporary safe shelter. MoWA also works closely with IOM in ensuring basic necessities such as food and clothing, as well as return and reintegration assistance for female victims of trafficking.

### *Ministry of Interior (MoI)*

MoI is one of the key players in fighting both internal or cross border trafficking in persons. Despite the obstacles created by the lack of legal provisions which directly criminalize human trafficking, MoI is making an increasing number of arrests of perpetrators referencing related crimes such as kidnapping and sex crimes.

MoI consists of four departments, each headed by a deputy minister: They are the Departments of Counter Narcotics, Security, Civilian and Government Affairs and Administration. The sub-departments under the Security Department play a key role in combating trafficking in persons as stated below.

#### *a) Passport Department*

While the Ministry of Foreign Affairs Visa Section issues fee-exempt visas under a protocol for employees of international agencies and governments, the MoI Passport Department is responsible for issuing permission to stay to all other holders of ordinary foreign passports and charges a visa fee. The MoI has reported that an increasing number of facilities have opened in Kabul in recent years that are potential conduits for trafficking in Afghanistan, especially in Kabul where up to 100 foreign women are working in bars, restaurants, hotels and beauty parlours, which is not common in Afghanistan. The Ministry also reports that the number of Afghan visa requests from Asian female citizens who wish to work in Afghanistan as waitresses, cooks, cosmeticians, masseuses, and designers has been increasing. As a Ministry tasked with visa issuance, it plays an important role in determining who is authorized to enter into the country and who is not. In cases where traffickers or trafficked victims are concerned, it can regulate entry, thus combating the crime.

#### *b) Afghan National Police (ANP)*

Historically, Afghanistan has never had a very strong or effective civilian police force. Following the defeat of the Taliban in the fall of 2001, anti-Taliban Northern Alliance commanders quickly filled many of the district and provincial police forces with private militias who had little or no police training or experience. The daunting challenge

confronting police reformers in the spring of 2002 was to create an effective civilian police unit from an untrained force manned primarily by factional commanders and their militias, who had little or no equipment or infrastructure, and who were unpaid or under-paid<sup>47</sup>.

The 2006 Afghanistan Compact authorized a police force numbering 62,000. The increase in insurgent activities in southern Afghanistan in 2006 resulted in several “temporary” measures to increase the size of the police force beyond this authorized level. One controversial quick-fix measure was the creation of the Afghan National Auxiliary Police (ANAP), a force of 11,270 who were recruited locally, given 10 days of training, and then deployed initially to six southern provinces most directly affected by the Taliban insurgency. There is consensus on the need for more policewomen — of some 63,000 police in 2006, only 180 were women<sup>48</sup>.

The police sector in Afghanistan is currently supported by approximately 25 countries and several international organizations. The European Commission (EC) has been the single largest donor of police salaries, contributing nearly half of the USD 330 million channelled through the Law and Order Trust Fund for Afghanistan (LOFTA) between 2002 and 2006. Germany used to be responsible for coordinating international support for the ANP. In 2007 however, Germany’s key partner role was subsumed within the overall umbrella of the newly established European Union Police Mission in Afghanistan (EUPOL).

ANP is an over-arching police institution and the units described hereunder play significant roles in detecting, investigating and prosecuting human trafficking, as well as identifying victims. Once trafficked victims are rescued, the ANP usually refers them to MoWA or the Ministry of Justice for temporary shelter and to IOM for return and reintegration assistance.

Among the various ANP units, the Afghan Uniformed Police (AUP) is responsible for most day-to-day police operations, including conducting raids at suspicious establishments, patrolling communities, and often receiving reports on criminal incidents such as human trafficking cases as a first point of contact.

The former Border Guards within the Ministry of Defence have now been abolished and a new Border Police unit has been activated under the jurisdiction the MoI. The Afghan Border Police (ABP) has thus far trained and deployed almost ten thousand personnel, who are stationed at every border, including the Kabul International Airport and land border crossing points for immigration control. In an effort to regulate illicit cross-border

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<sup>47</sup> Andrew Wilder, Afghanistan Research and Evaluation Unit (AREU), *Cops or Robbers? The struggle to reform the Afghan National Police*, July 2007

<sup>48</sup> *ibid*

movement of people and goods, they are mandated to inspect individuals who wish to enter into the country and examine their travel documents to ensure they are genuinely authorized. Thus they are best placed in detecting potential perpetrators and victims of cross-border trafficking, making an arrest or putting victims in custody if necessary. A total of 63 border police officers have already been trained specifically on trafficking by IOM in December 2007 and IOM intends to continue such training.

Every case that is registered with the ANP is sent to the Criminal Investigations Department (CID) for investigation and upon completion of investigation is then sent to the Office of Attorney General and the judiciary for further action. All trafficking cases would thus pass through the CID, and it is essential that the CID officers be well informed of the nature of the crime, characteristics of the investigation of trafficking cases and how to handle victims to ensure their well-being and effective cooperation.

In March 2008, all CID heads of 34 provincial offices and other key staff from CID Headquarters attended training on the investigation and prosecution of trafficking cases facilitated by IOM. Immediately after the training, the CID HQs created a new Counter Trafficking Unit (CTU) within the Department and provided six IOM-trained officers fully dedicated to the investigation of trafficking cases. Following a request from IOM, CTU gathered all the statistics on human trafficking cases, mainly from the Child Protection Unit. It showed that MoI handled 88 cases, made 134 arrests and rescued 15 victims in 1386 (March 2007 - March 2008).

The work of the Sex and Behaviour-Related Crimes Unit must be also highlighted in regard to the investigation of sex trafficking cases. The Unit is specifically tasked to look into the cases concerning *zena*, or fornication, as prescribed in the Chapter 8 of the Afghan Penal Code<sup>49</sup>. The provisions criminalize all sex acts outside of marriage, distinguishing the crime only based on whether the act has been committed by mutual consent or by force, not whether the act has involved a financial transaction. In other words, the concept of prostitution does not exist the same way as in many other countries where it is considered as a distinct crime. As there are no separate statistics on prostitution cases, it is not easy to make a detailed analysis into the issue. Nevertheless, according to the general statistics on *zena* cases (with consent) from the Sex and Behaviour-Related Crimes Unit of the CID Kabul, the Unit handled a total of 21 cases and arrested 25 women and 36 men in Kabul province between September 2007 and June 2008. It is interesting to note that more male offenders, predominantly “procurers” of sex acts, were arrested, which is a commendable trend in view of addressing the demand side.

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<sup>49</sup> Supra note 40



One of the operational challenges identified, however, is the weak information sharing mechanism among different CID units. For example, CID Kabul officials informed IOM that they forwarded the afore-mentioned *zena* cases directly to the Office of Attorney General for prosecution, without passing them through the CTU within the Central CID. Considering the close linkage between *zena* and sex trafficking, some form of inter-unit coordination and information sharing might have been beneficial to better understand and investigate the crime.

### *Ministry of Justice (MoJ)*

At this point, Afghanistan does not have an effective legal framework to prosecute trafficking in persons. The most relevant penal provisions used against traffickers are under Chapter VI on Illegal Arrest and Detention, Chapter VII on Kidnapping and Chapter VIII on Fornication, Pederasty and Violation of Honour<sup>50</sup>.

In an effort to provide a more comprehensive counter trafficking legislation, MoJ's Legislation Department has drafted the Law on Combating Kidnapping and Trafficking in Persons that consists of six chapters and 38 articles. It defines various concepts concerning trafficking, sets the level of punishments for each violation under the law and requires support to victims while prohibiting prosecution. The law has been shared with relevant ministries and is currently under the final review. The passing of the law will greatly facilitate the prosecution of the crimes related to trafficking in all cases concerning, men, women and children.

IOM has been assisting the Ministry with all phases of the drafting process since 2003. In 2007, IOM facilitated the establishment of bilateral cooperation between Afghan and Tajik law enforcement officers, particularly in the area of legislation, and conducted a study tour to Dushanbe for Afghan officials to specifically learn about the Tajik counter trafficking law and Tajikistan's experience in drafting and enforcing the law. As a follow up to the study tour, IOM also sponsored a roundtable discussion among key Afghan officials and Tajik legal experts to jointly review the Afghan draft counter trafficking law in Kabul. IOM also collated and made available approximately 26 counter trafficking laws from different countries to help the Afghan officials compare and learn from the best examples.

In order to ensure coordination among all the agencies concerned, the draft law also calls for the establishment of an inter-agency commission to be headed by the Ministry of Justice and comprising the Attorney General's Office, MoI, Ministry of Foreign Affairs (MoFA), MoLSAMD, Ministry of Education (MoE), Ministry of Public Health (MoPH), MoWA, Directorate of National Security, Ministry of Refugees and Repatriation, Afghanistan Independent Human Rights Commission (AIHRC) and a civil society group appointed by Justice Minister. Reconsideration may

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<sup>50</sup> Supra note 40

be necessary as to which agency should lead the commission. Recognizing MoJ's limited monitoring capacity and outreach in communities, it may be more appropriate to assign the lead role to the Office of the President.

While the efforts of drafting the law are commendable, it should be noted that there are some major discrepancies between the Afghan draft law and relevant international instruments in the fundamental understanding of the crime. One of the most conspicuous points is that the Afghan law defines (Article 3) the trafficking in persons committed by forcible or deceitful means as "kidnapping" even if it is for the purpose of exploitation such as forced labour. The draft law only recognizes cases of trafficking when the victim gives "consent" to the trafficker. Article 32 reads that where the victim did not give consent to be trafficked, his/her prosecution shall not be allowed. This sounds contradictory as according to the Afghan definition, victims of trafficking are those who have given consent; so this article allows an interpretation that all trafficked victims can be subjected to prosecution, leading to double victimization. IOM, UNICEF and UNODC have jointly submitted their recommendations for the improvement of the draft law, stressing that kidnapping is a separate crime and that it can be just a part of the criminal acts that constitute human trafficking.

MoJ also runs an Italian-supported Juvenile Rehabilitation Centre where minor victims of trafficking, in need of shelter assistance, are accommodated.

#### **4.2 Assistance Provided by Different Actors**

Although there are a number of international organizations and NGOs working in the area of human rights protection in general or related issues such as gender equality and children's rights, very few of them have a specific programmatic focus on counter trafficking and donor support has been largely inadequate.

##### *Afghanistan Independent Human Rights Commission (AIHRC)*

AIHRC is legitimized by Article 58 of the Constitution of Afghanistan which states, "*The State, for the purpose of monitoring the observation of human rights in Afghanistan, to promote their advancement and protection, shall establish the Independent Human Rights Commission of Afghanistan. Any person, whose fundamental rights have been violated, can file a complaint to the Commission. The Commission can refer cases of violation of human rights to the legal authorities, and assist in defending the rights of the complainant. The structure and functions of this Commission shall be regulated by law*".

The Commission's mandate has been specified by the Presidential Decree of the Law on the Structure, Duties and Mandate of the AIHRC in May 2005. The law also ensured the independence

of the Commission including the appointment of Commissioners<sup>51</sup>. From 2002 to 2005, the Commission received a total contribution of USD 16 million from Denmark, Switzerland, Finland, Norway, Canada, UK, US, New Zealand, OHCHR, and UNHCR. New partners joined the list of donors providing financial support to AIHRC in 2006, including Australia, the Netherlands and Ireland<sup>52</sup>.

AIHRC has seven programme units to fulfill its mandate related to the promotion, protection and monitoring of human rights: the Human Rights Education Unit (HREU), the Women's Rights Unit (WRU), the Child Rights Unit (CRU), the Monitoring and Investigation Unit (M&IU), the Human Rights Field Monitoring Unit (HRFM), the Transitional Justice Unit (TJU) and the People with Disabilities Unit (PWDU).

The CRU made 10,040 people (including 4,049 women) aware of the International Convention on the Rights of the Child, issues concerning violence against children in the family, school and society and its impact on Afghan children in 2006. A total of 184 illegally detained children have been released following AIHRC's intervention in Herat, Mazar-e-Sharif, Kandahar, Gardez, Maimana, Kunduz and Jalalabad. The CRU regional office in Gardez also noted that there was no facility specifically designed for children and that juvenile offenders were kept in detention centres and prisons with adults. CRU's subsequent discussion with local authorities resulted in the establishment of a Child Correctional Centre in Khost province. In addition, the CRU also completed two studies on child labour and child sexual abuse and produced three films to raise the awareness of children's basic rights and the impact of violence on children. These films were officially screened in October 2006.

AIHRC maintains an extensive database, covering 17 human rights violation categories. Although there is no case recorded specifically as human trafficking, relevant cases can be found under the category pertaining to the right to liberty and security of a person. Between 2006 and 2007, a total of 56 cases were recorded under the titles of sexual exploitation (24), forced labour (12) and forced marriage (20).

### *International Organization for Migration (IOM)*

IOM is one of the leading agencies combating trafficking in persons in Afghanistan and has implemented a variety of projects aimed at increasing the awareness of trafficking, protecting the victims and building the capacity of law enforcement officers in investigating and prosecuting the crime since 2003. IOM launched the first-ever survey on Human Trafficking in Afghanistan back in 2004, which shed light on Afghanistan's sizeable trafficking problem and consequently became

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<sup>51</sup> AIHRC, Annual Report 1 January 2006 – 31 December 2006, 2007

<sup>52</sup> *ibid*

the major factor in placing Afghanistan in Tier II, according to the TIP Report 2004 of the U.S. State Department.

Building on a variety of information activities IOM implemented through the broadcast media from 2005 to 2006, IOM has also embarked on a nation-wide information campaign aimed at raising general awareness of human trafficking issues among children, their families and the community at large, using schools as a medium for counter trafficking education. IOM, in cooperation with the ministries of Education and Women's Affairs, provided training of trainers for 35 schoolteachers from most border provinces, in order to get the word out about trafficking in 2007. These trainers have so far trained over 10,000 teachers back in their provinces and have also supported student counter trafficking clubs, which organize educational activities designed to raise awareness among young people of the risks of trafficking. For the general public, IOM has recently produced and is airing one-minute TV and radio spots with counter trafficking messages. Printed materials containing basic information in local languages are also being distributed in the form of cartoon booklets and flyers through partners.

The capacity of law enforcement agencies and the judiciary bodies is being strengthened through training in legislative mechanisms, investigation and prosecution techniques and other relevant counter trafficking issues. In 2007, IOM conducted two study tours for 24 key Afghan law enforcement officials to Tajikistan and Italy, where the participants learned their counterparts' best practices and counter trafficking experience and established bilateral cooperation to jointly combat the crime. As a follow up to the Tajikistan tour, IOM facilitated the visit of a Tajik Delegation, which included the Deputy Head of Tajik Police Academy, and organized training of 30 Afghan law enforcement officers in Kabul. At the same event, the Tajik experts also took part in a roundtable discussion held with the Legislation Department of the Ministry of Justice to review Afghanistan's draft counter trafficking law. Between January 2007 and March 2008, IOM also conducted training for 63 border police officers, 34 heads of CID provincial offices, 17 CID officers from Kabul districts and 15 MoI officers.

Following the training, IOM assisted CID in establishing a Counter Trafficking Unit (CTU)<sup>53</sup> by providing the Unit with the basic office equipment necessary for their daily operations as well as the development of a law enforcement database for effective investigation and prosecution of trafficking cases. IOM is currently adapting its global trafficking database to the Afghan context, in consultation with the CTU staff.

IOM has also established a referral mechanism, involving the Government, NGOs and UN specialized agencies, in order to deliver effective and timely direct assistance to victims. Both foreign nationals trafficked to Afghanistan as well as Afghan victims of internal trafficking are identified by IOM partners and assisted through the provision of daily necessities such as clothing

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<sup>53</sup> The background is explained in Chapter 4.1 under the MoI section.

and food, medical and psychological support and repatriation assistance if necessary. IOM has assisted over 100 victims of trafficking since 2006. Although the number of referrals is on the increase, thanks to vigorous awareness-raising and networking efforts, it is still inadequate and IOM intends to strengthen the referral capacity of NGOs and community-based organizations through training and operational support.

### *United Nations Children's Fund (UNICEF)*

A child, who has to work, will be denied an education. A child without an education has limited opportunities as an adult, and is more likely to enter adulthood in poverty, or become a child bride. An adult faced by poverty will have more need for his child to work to support the family, or be tempted by the traffickers. In an effort to break this cycle, UNICEF works with the Government to address some of the longer-term causes of child labour, child trafficking and early marriage and is supporting a pilot project in Kabul that aims to identify vulnerable families and provide them with livelihood support to find ways to prevent families from being forced to rely upon a child's income or having to marry their daughters early. UNICEF also assists those in their early teens who have never been to or dropped out of school in learning practical skills, alongside literacy tuition, that will enable them to find constructive employment and a basic education and avoid the risks of being drawn into illegal activities. More than 7,000 such young people have been involved in these UNICEF-supported programmes since 2004.

### *Humanitarian Assistance for Women and Children of Afghanistan (HAWCA)*

Among the many local NGOs working on human rights issues, one of the most active organizations is HAWCA. While HAWCA works in various fields of human rights, the major activity pertinent to trafficking issues is the Safe Home for Women at Risk project.

HAWCA's Safe House was established in Kabul in February 2004 in close cooperation with MoWA and AIHRC<sup>54</sup>. The House is designed to provide temporary housing/protection for those women or girls who have been abused physically, sexually or psychologically by family members, community members, warlords, officials or any other person, need protection, but have no place where they can stay. The women and girls at risk are referred to the house through MoWA, AIHRC and UNHCR<sup>55</sup>. Although their cases have not been externally shared, HAWCA staff informally told the research team that they had provided shelter to a number of trafficked victims.

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<sup>54</sup> The House was established with financial support from Foundation Belessario (an Italian Foundation) in the first year, UNHCR and Rights and Democracy for the second year and for the year 2006 UNHCR has been the only donor for HAWCA's Safe House, while there has been in kind support from European Commission's Kabul Office as well as some small donations of HAWCA individual supporters.

<sup>55</sup> HAWCA, Annual Report, 2006

## *Chapter V: Recommendations*

It is difficult to collect accurate data on the trafficking situation in Afghanistan because of the lack of understanding of the issues and general confusion about the concept of human trafficking, smuggling and kidnapping, as well as the strong sense of shame attached to sexual exploitation concerning women. There is no consistent data collection method even among key stakeholders and it is not possible to quantify the magnitude of trafficking in persons, particularly women and girls, in today's Afghanistan. It has become clear, however, from in-depth interviews with community informants, that this lucrative business thrives along with other illicit activities such as smuggling of people and drugs, keeping vulnerable Afghan men, women, boys and girls deprived of their dignity and an opportunity to live a productive life.

Most of the historical, economic and social factors, such as poverty and insecurity, contributing to the prevalence of trafficking cases in Afghanistan, are related to broader reconstruction and development issues. It will take years of coordinated efforts by all actors, including the Government of Afghanistan, donors, inter-governmental organizations, NGOs and members of communities, to change. On the other hand, there are a variety of short-term and medium-term measures that can be undertaken to reduce human trafficking in, to and from Afghanistan.

First of all, the Afghan government needs to (i) formulate comprehensive national counter trafficking strategies for all men, women and children, (ii) establish a new coordination mechanism among all relevant ministries and organizations, and (iii) ensure the effective sharing of information and coherent reporting methods to better understand the situation and maximize the impact of interventions. Except for few organizations such as IOM, Afghanistan currently has almost no local or international organizations working with a clear focus on trafficking issues. The government should therefore encourage more actors to get involved in its national counter trafficking efforts and the donor community should in turn provide more support for such initiatives. As it stands, the international aid specifically earmarked for counter trafficking activities falls far short of what is needed.

In order to better understand the phenomenon, regular research should be conducted with a particular focus on issues such as gender-based violence, criminal networks involved with illicit activities such as human trafficking and smuggling and the psychological impact of trafficking on victims.

Lastly, the following are the recommended strategies specifically in the fields of prevention, prosecution and protection to be adopted by relevant Government ministries, and/or other stakeholders in the event that the issue cannot be adequately addressed by the Government.

## Prevention

- MoWA and MoLSAMD: Recognizing the push factors of trafficking in Afghanistan, conduct human rights advocacy against practices such as child abuse, domestic violence, sale of children and forced marriage. The situation should be closely monitored and perpetrators must be brought to justice, should such cases arise in the future. Special attention must be paid to working children in dangerous environments and interventions should be made for the improvement of their working conditions, should the abolition of child labour be considered impractical in the immediate future.
- MoRR: Provide appropriate assistance to Afghans returning from neighbouring countries and IDPs on a timely basis, recognizing their special vulnerability.
- MoWA, MoLSAMD and MoE: Conduct information campaigns to educate potential victims, including all men, women and children on the risks and realities of migration so that they are better equipped with information and can make better decisions when approached by traffickers. Bearing in mind that smuggled migrants can also be vulnerable and become victims of trafficking, the campaign should focus on not only the poor, but also relatively wealthy individuals seeking job opportunities abroad. The campaigns should be designed appropriately to reach rural areas and be gender-sensitive.
- MoWA and MoE: Build the capacity of journalists so that the local media, particularly broadcast media such as TV and radio, can cover and correctly report on issues related to human trafficking. Information campaigns should target broadcast media since the largest proportion of community members rely on TV and radio as their main sources of information.
- MoE: Strengthen the education system, recognizing the fact that less educated people are more prone to falling victim to trafficking. Special attention must be paid to addressing the gender disparity in enrolment rates, as well as reaching out to out-of-school children.
- MoI: Encourage community surveillance and patrols to warn people, particularly children and their families, on the risks of kidnapping and suspicious job offers, recognizing that trafficked persons are either taken by force or lured with false promises by people that they know in their own communities.

## Prosecution

- MoJ: Expedite the legislation of the draft counter trafficking law to facilitate the investigation and prosecution of trafficking cases. It must be noted that the draft law does not fully comply with the international instruments and that some amendments are necessary either before passing or at a later stage. The law also stipulates the inter-agency commission to be headed by MoJ, but considering the Ministry's limited monitoring capacity and outreach in communities, it may be more appropriate to assign the lead role to the Office of the President.

- MoI, Office of Attorney General and Judiciary: Continue the training of law enforcement officers, including the police, prosecutors and judges, on how to investigate and prosecute trafficking cases as well as how to handle victims in a gender sensitive manner. There will be an urgent need for training in order to ensure the correct understanding of the new counter trafficking law as soon as enacted.
- MoI: Finalize the development of the law enforcement database for effective investigation and prosecution. Information on cases of human trafficking must be recorded, analysed and shared in a timely and consistent manner through the use of a common database among relevant agencies, while protecting the identity of victims. The information sharing mechanism between different units of the Criminal Investigations Department (CID) must be also streamlined.
- MoI: Strengthen border management and continue to train border police officers on victim identification. More patrols and intelligence activities must be conducted to cover the green borders, particularly near the borders with Iran and Pakistan, considering that most people are either trafficked or smuggled through unofficial land borders to these neighbouring countries.
- MoI, Office of Attorney General and Judiciary: Exempt victims of trafficking from prosecution and avoid detention or imprisonment of victims. Appropriate protection has to be given to victims so that they can cooperate throughout the investigation and court proceedings without undue psychological pressure.
- MoWA: Empower women through awareness-raising campaigns, noting that women trafficked for the purpose of sexual exploitation are victims and entitled to seek assistance, bearing in mind that women and their families are currently facing great social obstacles in reporting their cases. In recognition of the fact that victim cooperation is key to successful prosecution, an environment should be created where women, girls and their families can report their cases and cooperate with law enforcement bodies to facilitate the investigation and prosecution of trafficking cases.

## Protection

- MoWA and MoLSAMD: Provide shelters specifically designed for victims of trafficking and train shelter staff on human trafficking issues so that they can address the specific psycho-social and medical needs of victims in a gender-sensitive and appropriate manner. Having been subjected to extreme traumatic experience, most victims are in need of short- and long-term support.
- MoI, MoWA and MoLSAMD: Strengthen the nationwide victim referral network, including in remote areas, by supporting and engaging more government counterparts and community-based organizations.
- MoWA and MoE: Recognizing the lack of community-based organizations with expertise and clear programmatic focus on trafficking issues, build the capacity of community leaders



in detecting trafficking cases, referring victims for assistance and monitoring reintegration activities.

- MoWA and MoE: Educate communities so as to eliminate discrimination towards trafficked persons, particularly women, and enable their sustainable reintegration. Failing that, it is likely that the victims will be re-trafficked or become traffickers themselves, thus continuing the vicious cycle.

## Other

- MoFA: In light of the fact that a significant number of trafficking cases involve more than one country, promote regional cooperation, particularly with Iran and Pakistan, on issues such as effective border management, repatriation of victims, information sharing and extradition of perpetrators.

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# Annexes

## Annex I: Questionnaire for Research

### Guidelines for Enumerators:

1. The sign [→] means that directly refer to the question number that is written in front of that arrow like, (→ 1.8) would mean to directly go to question number 1.8
2. If any question is not applicable to the respondent, like “if the respondents has not taken any loan from any MFI” then asking other questions about Microfinance would not be applicable to the respondents, thus in this case the questions that are not applicable shall be marked as “99”
3. If the respondent is not ready to answer any question like if they don’t want to tell us the value of their assets, mark those questions as “999”

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### Section 1: Demographics

#### Basic Information

Questionnaire Number		Date of Birth	
Interviewer’s Name		Country of Birth	
Respondents Name		Place of Birth	
Surname		Date of Interview	
Gender	1 Female 2 Male	Province	
Nationality		District	
Category of Respondent		Village/ Nahia	

#### 1.1. Gender of Respondent

1	Female	
2	Male	

#### 1.2. Marital Status

1	Unmarried	
2	Married	

1.3. Literacy level of Respondent

0	No School	
1	Primary (1-6 grade)	
2	Secondary (6-9 grade)	
3	High School (12 Years)	
4	University	
5	Post-graduate	
6	Madrassa	

1.4. Age of Respondent

1	10-17 years	
2	18-24 years	
3	25-40 years	
4	Above 40 years	

1.5. Employment Status

1.	Unemployed, In search of Job → 1.8	
2.	Unemployed, not looking for job – → 1.8	
3.	Part-time employment	
4.	Full employment	
5.	Pensioner → 1.8	
6.	Student → 1.8	
7.	Housewife, not working → 1.8	

1.6. How many hours did you work last week?

\_\_\_\_\_ Hours

1.7. What is your nature of work?

1	Government Employee	
2	International NGO Employee	
3	Local NGO employee	
4	Job in Private sector	
5	Self-employed	
6	Daily wages labour	
7	Agriculture Labour	
8	Others (specify)	

1.8. What is your approximate family income?

1	Below 5000 Afs	
2	Above 5000 till 12500 Afs	
3	Above 12500 till 25000 Afs	
4	Above 25000 till 37500 Afs	

5	Above 37500 till 50000 Afs	
6	Above 50000 Afs	

1.9. What is your ethnicity?

1	Pashtun	
2	Tajik	
3	Hazara	
4	Uzbek	
5	Turkmen	
6	Others (Specify)	

1.10. Do you have access to?

1	Clean Drinking Water	
2	Food	
3	Housing	
4	Electricity	
5	Education	
6	Health services	

## Section 2: Community Informants

2.1. Have you travelled outside Afghanistan in last 2 years?

0	No	
1	Yes	

2.2. Have you heard about trafficking in persons for exploitation?

0	No	
1	Yes	

2.3. Source of knowledge regarding trafficking and smuggling in persons

1	TV	
2	Radio	
3	Print Media	
4	Friends	
5	Neighbours	
6	Rumours	
7	Other (specify)	

2.4. Have you been personally involved in with cases of smuggling and trafficking in persons for the exploitation?

0	No	
1	Yes	

2.5. If yes please tell us about this in detail

2.6. What forms of Exploitation do you know or have heard about?

1	Forcing to work without payment or with a miserable payment	
2	Trafficking in children for labour or for any other purposes	
3	Forced Prostitution	
4	Removal of organs	
5	Forced Military service (Forced Conscription)	
6	Compulsion to transportation of narcotics	
7	Others (specify)	

2.7. Who do you think are engaged in trafficking in persons for the purpose of exploitation?

Profession	Gender	Age	Nationality
	1. Female 2. Male		

2.8. What, in your opinion, are the main reasons of smuggling and trafficking in persons for the purpose of exploitation respectively?

2.9. What, in your opinion, are effective measures of combating of smuggling and trafficking in persons for the purpose of exploitation respectively?

2.10. What kind of information should be useful to know for labour migrants prior to travelling abroad for work?

2.11. What kind of information and measures shall be included informational and educational programmes on combating trafficking in person?

### Section 3: Victims<sup>56</sup>

#### 3.1. Type of referring organization

1	NGO	
2	Law Enforcement	
3	Embassy	
4	Self- referral	
5	Walk-in	
6	Other	
7	NA	
8	Others (specify)	

#### 3.2. Name organization/person

#### 3.3. Location

#### 3.4. Date of Interview

#### 3.5. Location of interview

#### 3.6. How contact was initiated between the individual and her/his recruiter?

1	Personal Contact	
2	Newspaper Advertisement	
3	Radio Advertisement	
4	Internet Advertisement	
5	Television Advertisement	
6	Sold by family members	
7	Kidnapped	
8	other(Specify)	

#### 3.7. What kind of work did the individual believe s/he was going to be engaged in following arrival at the final destination?

1	Au pair-Baby-sitter	
2	Agricultural work	
3	Domestic work	
4	Sweatshop labour	
5	Selling	
6	Begging	
7	other form of Low level criminal activities	

<sup>56</sup> This section has been adapted from the IOM Screening and Assistance Forms.

8	Military service	
9	Dancer-entertainer	
10	Sex worker	
11	Waitress	
12	Other	

3.8. What was the individual told would be her/his salary following arrival at final destination?  
(Equivalent in USA per month )

3.9. Did the individual pay any money to the recruiter in advanced?

0	No	
1	Yes	

If YES, how much? (Equivalent in USD )

3.10. If NOT recruited, was the individual forcibly abducted by the traffickers?

0	No	
1	Yes	

3.11. If yes was the individual abducted and forcibly transported to another location in her/his country of origin?

0	No	
1	Yes	

3.12. Was the individual abducted and forcibly transported out of her/his country of origin?

0	No	
1	Yes	

3.13. If any travel costs were incurred before departure, who paid them?

1	Trafficker	
1	Victim	
3	other	

3.14. Specify the means of transportation used:

1	On Foot	
2	Vehicle	
3	Ferry	



4	Train	
5	Aircraft	
6	Other	

3.15. Did the individual cross the border at an official entry point?

0	No	
1	Yes	

If NO, specify-

If YES, specify-

3.16. Did the individual use her/his own identity documents or were false identity documents provide?

1	Own	
2	False	
3	Forged	
4	NA	

3.17. Was an entry / exit visa required?

Entry visa:

0	No	
1	Yes	

Exit visa:

0	No	
1	Yes	

3.18. Where are the identity documents?

1	With the victim	
2	with the employer	
3	With the trafficker	
4	NA	

3.19. Did the individual spend any time in transit countries?

0	No	
1	Yes	

If YES, specify-

3.20. Did s/he engage in any activities in these countries?

0	No	
1	Yes	

3.21. If yes which activity?

1	Au pair-Baby-sitter	
2	Agricultural work	
3	Domestic work	
4	Sweatshop labour	
5	Selling	
6	Begging	
7	other form of Low level criminal activities	
8	Military service	
9	Dancer-entertainer	
10	Prostitution	
11	Waitress	
12	Other	

3.22. What activities has the individual been engaged in since her/his arrival at the final destination?

1	Au pair-Baby-sitter	
2	Agricultural work	
3	Domestic work	
4	Sweatshop labour	
5	Selling	
6	Begging	
7	other form of Low level criminal activities	
8	Military service	
9	Dancer-entertainer	
10	Prostitution	
11	Waitress	
12	Other	

If OTHER, specify

3.23. How soon after arrival at the final destination did this activities begin?

1	1 <sup>st</sup> week of arrival	
2	2 <sup>nd</sup> week of arrival	

3	3 <sup>rd</sup> week of arrival	
4	4 <sup>th</sup> week of arrival	
5	More than that( specify)	

3.24. Was the individual forced to engage in any activity against her/his will?

0	No	
1	Yes	

3.25. If Yes, how?

1	Treats	
2	Physical violence	
3	Other( specify)	

3.26. How much money did the individual earn from this activity?

(Equivalent in USD/month )

3.27. Was the individual allowed to keep her/his earning?

0	No	
1	Yes	

3.28. Did the individual have to pay a debt to recruiters/ transporters/ exploiters?

0	No	
1	Yes	

If YES, specify

How much? ( )

What was the debt for? ( )

3.29. What degree of freedom of movement did the individual?

1	Total Denied	
2	Only accompanied	
3	No restriction imposed	
4	Other(specify)	

3.30. What were the conditions of exploitation?

1	Excessive Working hours	
2	Limited/No freedom of choice	

3.31. Additional corroborative materials

1	Police or immigration reports	
2	Any document or travel tickets advance	
3	Immigration departure or landing cards	
4	Reports of any medical treatment provide due to injuries prior to referral them	
5	Copies of bogus employment copies of original advertisement	
6	Diary entries, letters written by the individual	
7	Other (Specify)	

3.32. Is the individual a VICTIM of trafficking as it is in the definition?

0	No	
1	Yes	

If NO:

1	Smuggling Migrant	
2	Victim of other type of crime	
3	irregular migrant	
4	Suspected infiltrator	
5	Other( Specify)	

3.33. Is s/he willing to return home?

0	No	
1	Yes	

#### Section 4: Organizations

1. Name of organization:
2. Office location in Afghanistan:
3. What type of service do you provide to Afghanistan? (Programmes)
4. Who are your beneficiaries? (General population, returnees, IDPs, children, widows, etc.)
5. Does your organization's definition of trafficking differ from that in the protocol? Please explain.
6. What measures, if any, is your organization taking to counter trafficking in Afghanistan?
7. Do you participate in any working groups to monitor human rights violations? If yes, please indicate the name of groups, location, and what violations they monitor.
8. Please cite any discussion forums your organization has participated in that addressed trafficking in Afghanistan or in neighbouring countries. Who were the participants? (Government representatives, NGOs, international organizations) Include date and country/province.
9. Has your organization received reports of trafficking within, from, through, or to Afghans or in another country?
10. Has your organization received reports of any of the following incidents in Afghanistan, or involving Afghans in country? (If yes, please indicate how many cases for each)
  - a) Selling or loaning children for labour or other purposes
  - b) Abductions for sexual slavery or exploitation or forced marriages
  - c) False marriages
  - d) Abductions or deception for forced labour
  - e) Forced prostitution
  - f) Organ removal
  - g) Forced conscription
  - h) Coercion, threats or violence for forced drug couriership
  - i) Marrying of young girls for bride price to money lenders or foreigners
  - j) Marrying of the young girls for material goods or release of debt
  - k) Exchange of daughters for the settlement of community disputes
11. For each of the above-mentioned cases, can you provide details on the incident?
12. How did you come to hear about these cases? (Source of data)

13. If your organization has received reports on trafficking in Afghanistan, how have these cases been assisted?
14. For persons trafficked outside, by what means did the majority cross the border?
15. Do the reports that your organization has received indicate that smuggling (drug/arms) routes are being used to traffic persons within, from, into or through Afghanistan? Please explain.
16. Are your staff members aware of foreign nationals being trafficked into Afghanistan for forced prostitution or other exploitative purposes?
17. Have you received reports of foreign nationals being exploited in Afghanistan? Please explain.
18. Have you received reports on Afghan returnees falling victim to trafficking *en route* from other countries? (Refugees, asylum seekers, irregular migrants) Please explain.
19. How many unaccompanied minors returning to Afghanistan has your organization assisted in the past year?
20. If possible, please provide the following details: 1) What are their immediate protection needs; 2) How are they being assisted; 3) What efforts, if any, are being made to trace their families and reunify them; 4) How did they return; and 5) Why did they return?
21. Have you received reports indicating that displaced persons or returnees are selling their children or marrying their daughters off at an earlier age than average for material benefit? In other words, is this group resorting to an exploitative practice to meet basic survival needs?

*Annex II: Afghan Penal Provisions Commonly Used to Prosecute Trafficking Cases*  
Penal Code Issue No. 13, Serial No. 347, enacted on 15 Mizan 1355 (7 October 1976)

CHAPTER SIX: Illegal Arrest and Detention

**Article 414:** A person who, illegally and without the instruction of concerned authorities, arrests, detains, or prevents someone also from work, shall be sentenced in view of the circumstances to medium imprisonment.

**Article 415:** If arrest, detention, and prevention from work is accomplished by a person wearing, without right, official uniform or by a person who assumes a false attribute, or by a person presenting to other persons feigned orders of concerned authorities, to offender shall be sentenced in view of the circumstances to long imprisonment, not exceeding ten years.

**Article 416:** If arrest, detention, or prevention from work is accompanied by coercion, threat or torture or if the person committing the crime is an official of the government, the offender shall receive the maximum anticipated punishment specified under article 415 of this Law.

**Article 417:** A person, who knowingly lends a place to be used for illegal detention of other persons, shall be sentenced to medium imprisonment not exceeding three years.

CHAPTER SEVEN: Kidnapping

**Article 418:** A person who, himself or through another, kidnaps a child, not yet seven years old, or someone who cannot look after himself, or leaves at large one of the persons mentioned in an uninhabited area, shall be sentenced to medium imprisonment, not exceeding three years.

**Article 419:** If as a result of commitment of the crimes specified under Article 418 of this Law, some bodily member of the child or the person (kidnapped) is defected or lost, the offender shall be punished in accordance with the provisions of “Deliberate Laceration”, or if the child or the person (kidnapped) dies, the offender shall be punished in accordance with the provisions of “Deliberate Murder”.

**Article 20:** (1) A person who himself or through another, kidnaps, without coercion or fraud, a child not yet eighteen years old, shall be sentenced to long imprisonment , not exceeding seven years.  
(2) If the kidnapped child is a girl, the offender shall be sentenced to long imprisonment, not exceeding ten years.

**Article 421:** (1) A person who, himself or through another, kidnaps with coercion or fraud, a child not yet eighteen years old, shall be sentenced to long imprisonment.  
(2) If the kidnapped child is a girl, the offender shall receive the maximum anticipated punishment of the above paragraph.

**Article 422:** A person who, himself or through another, kidnaps someone who is eighteen years or over, shall be sentenced to medium imprisonment (from three to five years).

**Article 423:** If the acts specified under Articles 420 and 421 of this Law are committed by a person who has influence or authority over the person against whom the crime has been committed, or if the former is charged with the responsibility or raising the latter, or if the former is a servant of the latter, or if a number of the people are involved in the act, the offender shall be sentenced to long imprisonment, not less than ten years.

**Article 424:** A person who, himself or through another, kidnaps a woman who is eighteen years or over shall be sentenced to long imprisonment. In the case where the kidnapped woman is married, or act of fornication is committed with the kidnapped, the offender shall be sentenced to the maximum anticipated punishment.

**Article 425:** A person who carries off a girl, who is sixteen years or over, at her own will from her parents' residence for the purpose of lawfully marrying her, shall not be considered as having committed an act of kidnapping.

#### CHAPTER EIGHT: Fornication<sup>57</sup>, Pederasty, and Violation of Honour

**Article 426:** If in the crime of fornication the conditions of “Had<sup>58</sup>” are not fulfilled or the charge of “Had” is dropped, because of double or other reasons, the offender shall be punished in accordance with the provisions of this chapter.

**Article 427:** (1) A person who commits fornication or pederasty shall be sentenced to long imprisonment.

(2) In one of the following cases commitment of the acts, specified above, is considered to be aggravating conditions:

(a) In the case where the person against whom the crime has been committed is not yet eighteen years old.

(b) In the case where the person against whom the crime has been committed is a third degree relative of the offender.

(c) In the case where the offender is a tutor, teacher, or servant of the person against whom the crime has been committed or the latter has, one way or another, has authority or influence over the former.

(d) In the case where the person against whom the crime has been committed is a married woman.

(e) In the case where the offender deflowers a maiden.

(f) In the case where two or more persons have assisted each other in committing the crime or that the offenders have committed the act one after another.

(g) In the case where the person against whom the crime has been committed is affected by genital disease.

(h) In the case where the person against whom the crime has been committed becomes pregnant.

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<sup>57</sup> Although this is often translated as “adultery”, the term “fornication” should be considered more appropriate, considering that the original word *zina* does not require the perpetrators to be married to someone else.

<sup>58</sup> Also known as hudud, hadud or hudood in the plural form with the literal meaning of limit or restriction. In Sharia law, “had” usually refers to the class of punishments for certain crimes considered as “claims of God”, including fornication. If proven according to the Sharia law, the offenders of fornication are usually punished with stoning to death or whipping, depending on the specific context. A Ministry of Interior official says, however, that “had” has never been officially implemented since the fall of Taliban regime in Afghanistan.



**Article 428:** If someone of the act, specified under paragraph 1 of Article 427 of this Law, results in the death of the person against whom the crime has been committed, the offender in view of the circumstances shall be sentenced to continued imprisonment or death.

**Article 429:** (1) A person who, through violence, threat, or deceit, violates the chastity of another (whether male or female), or initiates the act, shall be sentenced to long imprisonment, not exceeding seven years.

(2) In the case where the person against whom the crime is committed is not eighteen years old, or the person who commits the crime is one of the persons specified under paragraph 2 of Article 427 of this Law, the offender shall be sentenced to long imprisonment, not exceeding ten years.

#### CHAPTER NINE: Instigating to Delinquency

**Article 430:** (1) A person who instigates a male or a female, not eighteen years old, the delinquency or a person who instigates another to acquire a profession pertaining to delinquency, or assists another in this respect, shall be sentenced to medium imprisonment, not less than three years.

(2) If the person committing the crime is one of the persons specified under paragraph 2 of Article 427 of this Law, or the act has been performed for the purpose of acquiring benefit, the offender shall be sentenced to long imprisonment, not exceeding ten years.

### *Annex III: International Agreements Related to Human Trafficking*

<b>International Agreements</b>	<b>Status of Afghanistan</b>
United Nations Convention Against Transnational Organized Crime 2000	Signed 14/12/00 Ratified 24/9/03
Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime 2000	
Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing United Nations Convention Against Transnational Organized Crime 2000	
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1951	Acceded 21/5/85
Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926	Definitive signature 16/8/54
Protocol amending the Slavery Convention 1953	Definitive signature 16/8/54
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1957	Acceded 16/11/66
Universal Declaration of Human Rights 1948	N/A
International Covenant on Civil and Political Rights (ICCPR) 1966	Acceded 24/1/83
International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966	Acceded 24/1/83
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984	Signed 4/2/85 Ratified 1/4/87
Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1966	Acceded 6/7/83
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979	Signed 14/8/80 Ratified 5/3/03
Convention on the Rights of the Child (CRC) 1989	Signed 27/9/90 Ratified 28/3/94



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IOM International Organization for Migration